



Senator Tipping, Representative Roeder, and honorable members of the Joint Standing Committee on Labor, thank you for the opportunity to speak before you today in opposition to the numerous proposals before you that would weaken, undermine, or repeal Maine's Paid Family and Medical Leave program. My name is Cate Blackford and I am the public policy director for the Maine People's Alliance. MPA is Maine's largest community action organization, with over 32,000 members across the state.

Specifically, I am here to oppose **LD406, LD539, LD952, LD 1169, LD1221, LD1249, LD1273, LD1307, LD1333, LD1400, and LD 1712**, and to support of **LD 894 and LD 575**, two bills that would offer improvements to make the program more effective and allow Maine's Department of Labor to run the program more efficiently.

The Maine Paid Family and Medical Leave program currently being implemented by the Department of Labor is a well-thought-out, moderate proposal, deeply rooted in extensive work with experts and stakeholders across the state. This program was developed over multiple years, came from the recommendations of a statewide commission, is backed by multiple actuarial analyses, and informed by the experience of every state ahead of us on how to maximize the health, community, and economic benefits while reducing the potential workload and costs on employers, employees and the State. The details were developed to balance one another; many of the proposed changes before you would unravel that balance.

In particular, I want to dedicate my time today to the issues of undue hardship and wage replacement, knowing that others are sharing details on other potential ramifications of the proposals before you.

Undue Hardship

One of the great benefits to our state is that paid leave is shown to expand workforce participation.¹ People are much more able and willing to stay in the workforce if they know they can take time for themselves and their loved ones when needed. It is counter-intuitive to then weaken that power. By allowing employers to deny leave with such wide discretion, people won't feel like they can take leave and continue working, which will leave us back in the place where they continue to leave the workforce instead.

Maine is the only state in the nation that offers employers an "undue hardship" exemption when scheduling paid leave. In the most generous interpretation of the department's rules on hardship, employers now have the ability to delay their employees' application for paid leave benefits by a

¹ <https://iwpr.org/wp-content/uploads/2020/01/B383-Paid-Leave-Fact-Sheet.pdf>



matter of weeks, and an administrator can impose a leave schedule on the employee regardless of the needs of their loved one.

This could have an extremely detrimental impact on an employee's ability to take the time they are entitled to, especially if they believe they are choosing between the urgent need of a loved one or themselves, and keeping their family in their home and fed.

LD 1712 would further expand the power of employers to deny leave, to the point where any employer with fewer than 15 employees can claim an undue hardship and deny a particular schedule of leave at any time, simply because they are a small business. According to this bill, that decision should not and cannot be reviewed by the Department or appealed by the employee.

The proponents have claimed this is only for leave that can be scheduled in advance, not leave needed in an emergency. But think of everything that goes into determining, for example, when you can take four weeks to have surgery on your knee and recover. First, there is the challenge of actually being able to schedule your surgery and the frequent need to delay due to challenges in our healthcare system. Then you need to figure out who can help you take care of your children, your pets, cook for you and keep up with the house while you're unable to do everything you normally would. What about any community obligations you have that need to be scheduled around? What if your child has a shot at being in the state finals for basketball and you don't want to miss the highlight of their senior year? Are none of these factors that should be considered when scheduling your surgery? What if your mother can only take time off of work during *your* employer's busy season, because that's when her small employer is less busy? If your employer says you cannot take time off when she can be available, that may mean you cannot logistically manage surgery at all this year and you risk pain, and further damage. LD 1712 would dramatically impact the ability of Mainers to take the leave they need. **This is a benefit everyone is paying into and entitled to take, regardless of whether it is convenient for their employer. Employers should not be allowed to unilaterally dictate when leave can be scheduled.**

There is also a potential harm to employers directly, if this were to pass. If workers know that any small employer or seasonal employer has the right to deny their leave, how much will that impact small employers' ability to recruit and retain the workforce they need?

LD 575 would simplify Maine's program and align us with every other state, treating all employers and employees as equal under the law, by eliminating the hardship exemption completely.



Another provision in LD 1712 that is also highly concerning is the reduction in the wage replacement rate. The tiered wage replacement rate of Maine's PFML program is specifically designed to maximize program participation among low and moderate income workers, without driving up high premiums on all workers and employers. Reducing the benefit to just 65% of wages will leave us with all the problems experienced in California², where very few eligible low income people participated in the program, making it a program for just some, not all, and weakening the overall impacts. California and other states saw this evidence and nearly all have responded with tiered wage replacement rates similar to Maine's program.³

We all need to care for ourselves or our loved ones at some time in our lives. That means keeping the cost affordable for our lowest income neighbors and the benefits high enough to allow people to actually take the time off to recover or care for their loved ones. This is especially true for low wage workers who are far less able to afford to pay someone else to care for their loved ones. We urge you to reject a flat wage replacement rate. It will not have a significant impact on premiums, but will cut out a large sector of Maine's workers from participating in the program.

Paid leave is critically important for all Mainers. Most of us, at some point in our lives, will need to take time to care for ourselves or a family member. This program would allow people to care for themselves and loved ones when they are ill, injured, or dealing with a disability, and helps them to stay financially afloat. It allows more people to stay in the workforce⁴ and avoid difficult choices between work and family while reducing costs and increasing productivity for businesses.⁵

We urge you to support LD 575 and 874 and to reject the proposals to undermine, weaken and repeal paid family and medical leave in Maine.

² California Budget & Policy Center. Paid Family Leave Payments Don't Add Up for California Workers Report, 2022. <https://calbudgetcenter.org/resources/paid-family-leave-program-is-out-of-reach-for-many-californians/>

³<https://www.abetterbalance.org/family-leave-laws//search?questions%5B%5D=8&questions%5B%5D=9&selectAllQuestions=false&locations%5B%5D=44265&locations%5B%5D=44264&locations%5B%5D=44260&locations%5B%5D=44259&locations%5B%5D=44258&locations%5B%5D=44257&locations%5B%5D=44256&locations%5B%5D=44239&locations%5B%5D=44235&locations%5B%5D=44234&locations%5B%5D=33761&locations%5B%5D=44136&locations%5B%5D=44135&locations%5B%5D=33758&selectAllLocations=true>

⁴ <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/paid-family-leave-helps-women-stay-in-the-workforce.aspx>; <https://www.cbpp.org/research/economy/a-national-paid-leave-program-would-help-workers-families>

⁵ <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report>