

Testimony Opposing LDs 406, 539, 952, 1169, 1221, 1249, 1273, 1307, 1333, 1400, and 1712
Maine State Legislature
Committee on Labor
April 23, 2025

To Senator Tipping, Representative Roeder, and Honorable Members of the Labor Committee:

Thank you for the opportunity to comment on these bills. My name is Fatimah Hameed-Burne, and I am providing testimony on behalf of A Better Balance (ABB), a national legal advocacy organization dedicated to promoting fairness in the workplace and helping workers meet the conflicting demands of work and family. With four regional offices, our organization provides legal and policy support to paid family and medical leave campaigns throughout the nation, and we have worked on all of the paid family and medical leave laws that are now or will soon be in full effect, including Maine's. In addition to our legal research and drafting of paid leave laws, we have significant experience with paid family and medical leave implementation and enforcement.

ABB strongly opposes the bills before the Committee today. These proposals are not simply minor tweaks, but include sweeping structural changes that will harm working Mainers, particularly low-income workers, risk the solvency of the state fund, and even repeal the program entirely. Despite the strong bipartisan support of paid family and medical leave among Mainers and the proven benefits of paid leave policies, these bills seek to roll back this important program before it even begins. While we firmly oppose all of the bills being heard today, this comment highlights just several of the troubling proposals they contain.

We oppose the proposal to reduce wage replacement rates.

The proposal to flatten wage replacement at 65% across the board disproportionately harms low-wage workers. The current law's graduated wage replacement makes it possible for low wage workers, who may be less likely to have savings and other financial supports, to afford to take leave. The proposed change means requiring all workers, including those who make minimum wage, to survive on less than two-thirds of their wages while facing a significant life event. For minimum wage workers in Maine, that amount will not even reach a rate of \$10 per hour. For many, that's simply unaffordable, effectively denying their access to paid family and medical leave.

Most states with paid leave programs provide wage replacement that is more generous than 65%, and many use graduated wage replacement models that were successfully implemented and are working well. For example, paid family and medical leave programs in Colorado, Maryland, Washington State, Washington, D.C., and, soon, Minnesota, all provide workers 90% of their

wages up to a certain threshold, with lower proportions for higher amounts. Connecticut does the same with a starting point of 95% wage replacement up to a certain wage threshold. On the most generous side, Oregon provides workers 100% of their wages up to a proportion of the state average weekly wage and 50% of wages for amounts above that. These graduated rates allow lower-paid workers to receive a greater proportion of their wages as compared to higher paid workers. The overall caps on benefits built into these programs prevent depletion or overuse of the state fund, while the graduated wage replacement scale still affords workers the ability to care for themselves or loved ones during times of need, all without losing their livelihoods.

We oppose the expanded hardship exemption and the elimination of appeal rights.

Maine's hardship exemption around the scheduling of leave was already unprecedented in state paid family and medical leave laws. The proposed bill now gives an employer seemingly unchecked power to deny the scheduling of a worker's leave and effectively the leave itself, even if supported by medical documentation or advice, based on the employer's own determination that granting leave would be an undue burden on the business. The language is vague and subjective, opening the door to inconsistent and potentially discriminatory decision making. Alarming, LD 1712 would strip workers of the right to appeal and the labor department of its oversight power to review a hardship decision; this sweeping amendment would give the employer the final say on this, removing the worker's right to appeal and the labor department's crucial oversight powers to review the employer's denial. Even if an employer does not follow the statutory or regulatory requirements around the undue hardship for the scheduling of leave, the worker would have no recourse, and they would be forced to choose between keeping their job and income and receiving life-saving care. New parents could be denied leave in the critical first days of a new child's life, because the employer claims—and the agency cannot review—that the schedule for taking leave after the child's birth or adoption is a hardship. This severely weakens the paid family and medical leave program's ability to meet its purpose, creating a dangerous dynamic in which paid leave is not a right for employees but a benefit that an employer can choose to grant or deny at their discretion and leading to real harm for Maine workers.

We oppose any proposal to make participation in the Paid Family and Medical Leave program voluntary.

A voluntary paid family and medical leave model does not meaningfully address the issue of paid leave and would not markedly increase workers' access to paid leave. When paid leave is voluntary, significantly fewer employers participate, driving up costs and concentrating risk, which in turn makes the program less sustainable. Research clearly shows that paid family medical leave improves the health and economic security of workers, businesses, and the broader society. Paid family and medical leave functions as a social insurance program. This means that

without widespread participation, the society-wide benefits of paid family medical leave cannot be fully realized. Voluntary paid leave programs have not been shown to lead employers to expand access in meaningful ways, as shown by the incredibly low participation rate in New Hampshire’s voluntary program, in which less than 2% of the state’s private sector workforce is covered through the employer opt in. Without the statewide insurance pool, voluntary programs are also likely to raise costs in a way that discourage smaller businesses from participating, leading to a more uneven playing field as smaller businesses compete for talent against larger employers who can afford the higher costs. Under the current Maine program, on the other hand, small businesses with fewer than 15 employees are exempt from their portion of contributions while still being able to provide paid leave to their employees, a win-win for small businesses in Maine and their workforces.

Research shows that paid leave programs are not abused.

Evidence shows that paid family and medical leave programs are unlikely to be abused and work well for both workers and employers. In a 2024 report, the United States Department of Labor spoke with state paid family and medical leave program administrators, all of whom “noted that individual fraud, such as willfully submitting false or incorrect applications to obtain benefits, is rare.”¹ In another study, state program administrative staff reported that, due to the many checks and investigative processes built into state application systems, including detailed documentation, fraud in family leave and temporary disability insurance is even rarer than in other types of benefits programs.²

The numbers from different state programs support makes clear that misuse is not a frequent occurrence:

- In Connecticut, only 32 of over 14,000 calls to the paid family and medical leave program’s customer service hotline were regarding instances of suspected fraud.³
- Out of over 1.1 million claims processed under California’s State Disability Insurance program in 2022, which includes both Paid Family Leave and Short-Term Disability (or medical leave), only 3 criminal complaints of fraud were filed.⁴

¹ U.S. Dep’t of Labor, Women’s Bureau, Paid Leave: Equity in Implementation, 8 (2024), <https://www.dol.gov/sites/dolgov/files/WB/paid-leave/PaidLeaveEquityInImplementation.pdf>.

² Katherine Eyster, et al., Meeting the Promise of Paid Leave: Best Practices in State Paid Leave Implementation, National Partnership for Women and Families, 51-52 (2019), <https://nationalpartnership.org/wp-content/uploads/2023/02/paid-leave-works-evidence-from-state-programs.pdf>.

³ 2024 Annual Report, Connecticut Paid Leave, 56 (2024) <https://www.ctpaidleave.org/-/media/ctpl/english-pdfs-and-docs/2024-ctpl-annual-report.pdf>.

⁴ Fraud Deterrence and Detection Report, California Employment Development Department, 15, 25 (June 2023), https://edd.ca.gov/siteassets/files/about_edd/pdf/fraud-deterrence-and-detection-activities-report---june-2023.pdf.

- In one year, Massachusetts denied only 45 paid family and medical leave applications for containing false statements out of a total of 170,000 applications. This constitutes only 0.026 percent of all applications for the year.⁵
- In a study of New Jersey's paid family and medical leave program, not a single employer interviewed reported an instance of abuse, with some human resources managers saying that abuse program was virtually impossible.⁶

We strongly urge the Committee to protect Maine's Paid Family and Medical Leave program and to reject all bills that seek to weaken or eliminate it. Maine's workers and their families deserve the benefits that this program will bring to their health, their economic security, and their state. Thank you for the opportunity to testify.

Sincerely,
Fatimah Hameed-Burne, Senior Staff Attorney

⁵ FY2023 Annual Report for the Massachusetts Paid Family and Medical Leave Program, Department of Family and Medical Leave, 4, (2023), <https://www.mass.gov/doc/fy2023-dfml-annual-report/download>.

⁶ Sharon Lerner & Eileen Appelbaum, Business as Usual: New Jersey Employers' Experiences with Family Leave Insurance, Center for Economic and Policy Research, 24 (2014), <http://www.cepr.net/documents/nj-fli-2014-06.pdf>.