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San Francisco Family Friendly Workplace Ordinance

Legislative Fact Sheet

THE ISSUE

San Francisco has the lowest percentage of children of any major city in the country, representing only 13.5 percent of the population at the time of the 2010 census. Thousands of families have left since the last census, and a 2011 DCYF Community Needs Assessment found that family flight is even more significant among families of color. One way to reduce family flight is to make San Francisco's workplaces more family-friendly. In 2010, of San Francisco parents living with at least one child under five, 81 percent were in the workforce.

Changing Family and Workplace Demographics - The demographics of working families have changed dramatically in recent decades. In 1975, nearly half of families with children consisted of a male breadwinner and a stay-at-home mom; today, that number is one in five, and the number of single-parent households has doubled. Women now make up half of all workers; in nearly 4 in 10 families, mothers are now the primary breadwinners. While these social transformations are at the core of our economy and families, employers and labor policies have yet to adapt to these profound changes.

Workplace Challenges for Parents and Caregivers - Most workers today are routinely asked to combine work and family responsibilities, often in next-to-impossible ways. Low-wage and higher-wage workers alike often face work schedules that makes juggling daycare, after-school pick-ups, doctor appointments and soccer games extremely challenging. Some employers require employees to work without notice even if they have a pre-existing caregiving obligation or a responsibility to work a shift at another job. There is also growing evidence that employment discrimination against parents and caregivers is on the rise, and many employees are concerned about retaliation simply for asking for an

accommodation. These are not merely private challenges, but public issues that impact the entire economy.

Successful International Models for Workplace Flexibility & Predictability - In recent years, three countries -- the United Kingdom, Australia and New Zealand -- have pioneered model workplace laws that grant parent and caregiver workers the right to request flexible working arrangements. For example, in Britain, in the first year after implementing the right, a million parents came forward, and nearly all requests were granted on a voluntary basis with little opposition on the part of employers. In fact, the experiences have been so successful that these countries are expanding their laws from parents and caregivers to all employees.

Domestic Legislative Attempts - Similar “right to request” legislation at the Federal level has been introduced in several U.S. Congressional sessions by the late Senator Ted Kennedy (D-MA), Senator Bob Casey (D-PA), and Congresswoman Carolyn Mahoney (D-NY). Despite a 2010 White House summit on this topic, these attempts have not been successful. A growing number of state and local governments have passed laws explicitly prohibiting discrimination based on caregiver status, but while a California state bill has been proposed, its outcome is uncertain.

THE PROPOSAL

The Family Friendly Workplace Ordinance would do two main things: It would provide San Francisco employees who are caretakers or parents the right to request predictable and flexible workplace schedules, and it would prohibit employment discrimination based on an employee’s status as a caretaker or parent.

Creating a ‘Right To Request’ for San Francisco Employees - The law would grant San Francisco employees who are caregivers for children or dependents the right to make requests of their employers for changes to their working arrangements in order to meet caregiving responsibilities. An employer would have a duty to consider and respond to an employee's request.

A request could be for a flexible work arrangement, or it could be for greater scheduling predictability. *Workplace flexibility* refers to practices that enable employees to exercise more choices about how, when, and where they work to meet their particular work-caregiving balance needs. Examples of flexible work arrangements include a change in start or end times, part-time schedules, part-year schedules, job sharing, and telecommuting. *Workplace predictability* refers to the assurance that workers will know their work schedules with adequate advance notice so that they can make caregiving arrangements for dependent family members.

The proposed law lays out procedures for how an employee would make a request for flexibility or scheduling predictability, as well as a process for employers to consider such requests. The ordinance also

outlines “undue hardship” reasons that allow businesses to deny a request, including an increase in costs to the business (including productivity loss and the costs of retraining, transferring, or hiring employees), a negative impact on the ability to meet customer demands, an inability to organize work among remaining employees, and an insufficiency of work during the time requested by an employee. When a request is declined, an employer would be obliged to provide the reason for its decision in writing.

Employees would have to work for a business for at least six months in order to have the “right to request”, and small businesses under 10 employees would be exempted from the law because of the challenges they likely would face granting flexibility with so few employees.

Prohibiting Caregiver Discrimination - The proposed law would also prohibit employment discrimination based on caregiving status. This aspect of the proposal is critical not just for the reasons described above, but it underpins the implementation of the “right to request.” If employers are allowed to discriminate against workers with caregiving responsibilities, those who request a flexible or predictable work arrangement could be at risk of retaliation.

Enforcement and Administration - The City’s Office of Labor Standards Enforcement (OLSE) would be charged with administering and enforcing the law. OLSE currently administers and enforces local labor laws such as the Minimum Wage, Paid Sick Leave, and Health Care Security ordinances. The law also provides for the City to take civil action through the City Attorney against an employer that violates the law.

BENEFITS OF FAMILY FRIENDLY WORKPLACE ORDINANCE

Good for All Employees - The proposed law doesn’t just address the needs of one type of worker. By including both flexible workplace arrangements and scheduling predictability, it addresses the needs of workers across the economic spectrum. Workers who lack access to flexible and predictable work schedules are most often low-wage workers, female workers and workers of color, while professional, higher-wage workers will also benefit significantly from more flexible work arrangements.

Good for Employers - Numerous studies have found that flexible and predictable workplace arrangements are not luxuries, but are in fact key to controlling costs by increasing worker productivity and satisfaction and reducing worker absenteeism and turnover. Human resource literature shows that these arrangements increase the bottom line by recruiting from wider talent pools, improving employee retention, and increasing employee motivation and loyalty. The productivity and success of tomorrow’s San Francisco economy hinges on the policies we have in place for today’s working parents.

Continues San Francisco’s Leadership on Workers’ Rights - While “right to request” legislation has not yet been implemented in the United States, there is no reason why San Francisco can’t be the first. As with many progressive ideas, San Francisco has led the way for workers’ rights on important occasions,

from Healthy San Francisco legislation to the successful Paid Sick Leave ballot measure. Moreover, this policy idea has already been successfully implemented in other countries and is popular with employees and employers alike.

Broad Base of Support - Men and women of all political stripes are united in their desire to see updated workplace policies that respond to today's workers and families. In a 2012 national poll, voters across party lines resoundingly reported that they experience hardships in meeting work, family, and personal responsibilities and overwhelmingly want their elected officials to address these issues. Recently, San Francisco voters have twice supported family-friendly workplace measures at the ballot: Prop I in 2002 authorizing paid parental leave for City employees, and Prop B in 2006 allowing public officials with parental responsibilities to participate in meetings by teleconference.

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