

December 5, 2017

Dear Members of Congress:

The undersigned organizations urge you to oppose H.R. 4219, misleadingly named the “Workflex in the 21st Century Act.” This misguided, complicated and confusing proposal would eviscerate state and local progress for working families, erode existing legal protections, threaten local democracy and jeopardize public health. It would allow large corporations to evade state and local laws, creating a giant loophole that would mean uncertainty for workers and an uneven playing field for smaller companies.

I. H.R. 4219 would undermine state and local progress and preempt the effectiveness of state and local innovation – undermining democracy and local control.

Forty locations in the United States, including eight states, have or will soon have paid sick days laws in place. Largely as a result of these laws, more than 13 million working people have gained new access to paid sick days, dramatically improving private sector access with especially large gains for lower-wage workers.¹ H.R. 4219 may take away paid sick days guarantees for these 13 million people and impede progress in other locations. Nationally, nearly one-third of the private sector workforce – at least 37 million workers – do not currently have the right to earn paid sick days.²

H.R. 4219 would stall or reverse state and local progress on paid sick days and fair work schedules. A growing body of research shows that paid sick days laws support working families’ economic security,³ individuals’ ability to access health care⁴ and the public’s health.⁵ Fair scheduling laws do the same, by granting working people the predictability and input into their work schedules that they need to go to medical appointments, arrange child care, advance their education, and care for their families. Paid sick days and fair scheduling standards co-exist with – and often boost – economic and business growth.⁶

H.R. 4219 is an attack on democracy, local governance and innovation. Neither state governments nor the federal government should undermine the ability of voters or their elected representatives to pass public health and safety laws, including laws that establish workplace protections. States and localities have a long history of serving as laboratories, spearheading public policies that lead to national standards. H.R. 4219 would thwart such state and local innovation and undo local election outcomes.

II. H.R. 4219 would create uncertainty, unpredictability and inequities for working families.

H.R. 4219 is not a “paid leave” law, as its proponents claim. Real paid sick time laws provide predictability and a guarantee of dedicated time, ensuring that workers can use the paid sick time they earn to care for themselves and their loved ones when short-term illnesses or preventive care needs arise. H.R. 4219 would give corporations the unilateral option to deny workers the ability to use their time, thus eliminating these guarantees. The paid time off requirements in the bill that proponents claim are “generous” are no more than – and in many cases less than – companies are offering now.⁷ Once employers subtract

up to six federal holidays from those minimum requirements, as H.R. 4219 allows, employees would be left with as few as six guaranteed paid days off for illness, vacation and personal time. This is nowhere near the time needed for paid family and medical leave – extended time to care for a new child or a serious personal or family illness.

H.R. 4219 would eliminate the certainty and flexibility that real paid sick time and fair scheduling laws provide. H.R. 4219 would deny protections that ensure people have a voice in their work schedules and enough notice of work hours to plan the rest of their lives. It would rob employees of their rights under state and local laws to earn paid sick days and use them as needed – and it would give their employers the power to decide when, whether, for what reason and at what cost employees can use paid time off. Tellingly, according to survey data from the Society and Human Resource Management’s (SHRM’s) affiliate, *the Families and Work Institute*, “38 percent of employers report that supervisors consider employees’ reasons for requesting paid time off when deciding whether they will be allowed to take the requested time off. *So, in over a third of workplaces, employees’ ability to use their paid time off is affected by how or for whom they plan to use it.*”⁸ (Emphasis in original) Right now, many employers do not allow employees to use their sick time to care for a sick family member or to get a physical. H.R. 4219 would allow those practices to continue.

By eliminating important guarantees, H.R. 4219 would disproportionately harm women and families. Many paid sick days laws guarantee workers the right to earn paid “safe” time to deal with the aftermath of domestic or sexual violence. Many also include definitions of family that reflect the diversity of family structures in our country. Fair workweek laws recognize that working people need advance notice of their work schedules, and that people have the right to compensation when employers change schedules at the last minute. These laws set common sense baseline standards that benefit workers and their families, public health and the economy. H.R. 4219 would eliminate these guarantees at employers’ discretion.

H.R. 4219 would eliminate non-retaliation protections for workers who need to take sick time or request work schedules that work for their lives. Paid sick time laws provide guarantees that workers will not face adverse consequences at their jobs for taking paid sick time. This is important because, in the private sector, as of 2011, half (49 percent) of employees reported being subject to an employer’s disciplinary absence control policies.⁹ Many fair scheduling laws similarly protect working people from retaliation for requesting particular work schedules. H.R. 4219 would eliminate protections against this type of retaliation and do nothing to stop employers from disciplining workers who have unpredictable illness-related absences or need to modify their work schedules to accommodate caregiving responsibilities, a second job or other important obligations.

III. Large companies should not be able to write their own rules.

Employers can and should comply with state and local laws. State and local paid sick days and fair scheduling laws are structured similarly to one another and largely have the same key components. Multi-city and multi-state employers are already accustomed to complying with differing state and local laws in various areas, including zoning, wage and hour, business licenses and taxes, and keeping paperwork for local authorities. The answer for

corporations seeking to simplify compliance is to create company-wide policies that match the strongest standards in effect, not to undermine those standards altogether.

H.R. 4219 would disadvantage small businesses. This is a proposal written at the behest of and for the benefit of large corporations, allowing them to buy their way out of compliance with state and local laws. It would hurt the communities and customers that small businesses serve and give larger businesses further advantages in the marketplace.

We urge you to **reject H.R. 4219**. Working families *do* need paid time to care for themselves and their loved ones and flexibility in their jobs, but this unworkable, unfair and inequitable proposal would not guarantee either one. Better solutions, such as a real national paid sick days guarantee and real fair scheduling proposals, exist. True champions of working people across the country will not be fooled by the H.R. 4219 sham.

Sincerely,

9to5 Georgia
9to5 Wisconsin
9to5, National Association of Working Women
A Better Balance
AFL-CIO
American Association of University Women (AAUW)
American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers
Autistic Self Advocacy Network
BreastfeedLA
California Breastfeeding Coalition
California Partnership to End Domestic Violence
California Work & Family Coalition
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Center for Law and Social Policy (CLASP)
Center for Popular Democracy
Center for WorkLife Law
Coalition for Social Justice
Coalition of Labor Union Women
Coalition on Human Needs
Communications Workers of America (CWA)
Community Service Society of New York
CT Working Families
Daily Kos
Demos
Economic Opportunity Institute
Economic Policy Institute Policy Center
Economic Progress Institute
The Epilepsy Foundation
Equal Justice Center
Equal Rights Advocates

Faith in Public Life
Family Forward Oregon
Family Values @ Work
Farmworker Association of Florida
Food Chain Workers Alliance
Futures Without Violence
Greater New York Labor-Religion Coalition
Human Rights Campaign
Innovation Ohio
Interfaith Worker Justice
ISALAH
Jewish Women International
Jobs With Justice
Just Harvest
Keystone Research Center
Labor Project for Working Families
The Leadership Conference on Civil and Human Rights
Legal Aid At Work
Main Street Alliance
Maine Women's Lobby
Make it Work
Mi Familia Vota
Minnesota NOW
MomsRising
Mothering Justice
Movement Advancement Project
NAACP
National Alliance for Caregiving
National Alliance to End Sexual Violence
National Asian Pacific American Women's Forum (NAPAWF)
National Association of Social Workers
National Center for Transgender Equality
National Council of Jewish Women
National Council of Jewish Women - California
National Employment Law Project
National Employment Lawyers Association
National Institute for Reproductive Health
National Network to End Domestic Violence
National Organization for Women
National Partnership for Women & Families
National Physicians Alliance
National Physicians Alliance - New York Chapter
National Resource Center on Domestic Violence
National Treasury Employees Union
National Women's Law Center
NEAT - the National Equality Action Team
New Jersey Citizen Action
New Jersey Policy Perspective
New Jersey Time to Care Coalition

New Ventures Maine
New York Paid Leave Coalition
North Carolina Justice Center
Ohio Domestic Violence Network
Ohio Women's Public Policy Network
Organize Florida
PathWays PA
Pennsylvania Council of Churches
People For the American Way
People's Action
Pittsburgh UNITED
Public Justice Center
ROC Pennsylvania
Sargent Shriver National Center on Poverty Law
SEIU 32BJ
Service Employees International Union (SEIU)
South Florida AFL-CIO
South Florida Interfaith Worker Justice
Southwest PA NOW
TakeAction Minnesota
UFCW Local 99
UltraViolet
Unitarian Universalist Women's Federation
United Auto Workers (UAW)
URGE: Unite for Reproductive & Gender Equity
Women and Girls Foundation of Southwest Pennsylvania
Women Employed
Women For: Orange County
Women's Fund of Rhode Island
Women's Law Project
Work Strong Austin
Working Families Party
YWCA San Francisco & Marin
YWCA USA

1 National Partnership for Women & Families. (2017, November). *Paid Sick Days – State, District and County Statutes*. Retrieved 1 December 2017, from <http://www.nationalpartnership.org/research-library/work-family/psd/paid-sick-days-statutes.pdf>

2 U.S. Bureau of Labor Statistics. (2017, July 21). *National Compensation Survey: Employee Benefits in the United States, March 2017* (Table 6). Retrieved 1 December 2017, from <https://www.bls.gov/news.release/pdf/ebs2.pdf>

3 Gould, E., & Schieder, J. (2017, June 28). *Work sick or lose pay? The high cost of being sick when you don't get paid sick days*. Economic Policy Institute Publication. Retrieved 1 December 2017, from <http://www.epi.org/publication/work-sick-or-lose-pay-the-high-cost-of-being-sick-when-you-dont-get-paid-sick-days/>. Smith, T.W., & Kim, J. (2010, June). *Paid Sick Days: Attitudes and Experiences*. National Opinion Research Center at the University of Chicago for the Public Welfare Foundation Publication. Retrieved 1 December, from <http://www.nationalpartnership.org/research-library/work-family/psd/paid-sick-days-attitudes-and-experiences.pdf>

4 DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016, March). Workers Without Paid Sick Leave Less Likely to Take Time Off For Illness or Injury Compared to Those with Paid Sick Leave. *Health Affairs*, 35(3). Retrieved 1 December, from <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2015.0965>. Miller, K., Williams, C. & Yi, Y. (2011, October 31). *Paid Sick Days and Health: Cost Savings from Reduced Emergency Department Visits*. Institute for Women's Policy Research Publication. Retrieved 1 December 2017, from <https://iwpr.org/publications/paid-sick-days-and-health-cost-savings-from-reduced-emergency-department-visits/>

5 Asfaw, A., et al. (2012, September). Paid Sick Leave and Nonfatal Occupational Injuries. *American Journal of Public Health*, 102(9), e59-e64. Retrieved 1 December 2017, from <http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2011.300482>; Drago, R., et al. (2010, January 31). *Sick at Work: Infected Employees in the Workplace During the H1N1 Pandemic*. Institute for Women's Policy Research Publication. Retrieved 1 December 2017, from <http://www.iwpr.org/publications/pubs/sick-at-work-infected-employees-in-the-workplace-during-the-h1n1-pandemic>

6 National Partnership for Women & Families. (2017, January). *Paid Sick Days: Low Cost, High Reward for Workers, Employers and Communities*. Retrieved 1 December 2017, from <http://www.nationalpartnership.org/research-library/work-family/psd/paid-sick-days-low-cost-high-reward.pdf>

7 Society for Human Resource Management. (2017). *SHRM Customized Paid Leave Benchmarking Report*. Society for Human Resource Management Publication. Retrieved 1 December 2017, from <https://www.shrm.org/resourcesandtools/business-solutions/documents/paid-leave-report-all-industries-all-ftes.pdf>

8 Matos, K., Galinsky, E., & Bond., J. T. (2017). *National Study of Employers*. Society for Human Resource Management, Families and Work Institute and When Work Works Publication. Retrieved 1 December 2017, from <http://whenworkworks.org/downloads/2016-National-Study-of-Employers.pdf>

9 Miller, K., Drago, R., & Williams, C. (2011). *Paid Sick Days and Employer Penalties for Absence*. Institute for Women's Policy Research Publication. Retrieved 1 December 2017, from <https://iwpr.org/publications/paid-sick-days-and-employer-penalties-for-absence/>