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N.J. Family-Leave Bill: Compassion Vs. Cost

*Advocates say it recognizes the needs of today's working families.
Opponents say it will be bad for business.*

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Robert Serrano praises the support his bosses gave him when his wife was battling cancer.

"My job worked with me," said Serrano, a clerk at Landis ShopRite in Vineland. "They gave me the opportunity to come in at different times."

Still, nearly two years after Delia Serrano's death, he harbors one regret: "I would have loved to spend more time with her when she was in the hospital."

Advocates of New Jersey legislation that would provide paid family leave in such situations say there should be no regrets: Serrano should have had that time.

Nice sentiment, say opponents, but not so fast.

"You'd love to be able to give that person extra time," said Ken Ross, a spokesman for Lockheed Martin Corp. in Moorestown. But New Jersey's bill is "an answer that doesn't take the ripple effect into account."

The "ripple effect" on employers, particularly those with small staffs, and on the ability of the state to attract new businesses are at issue as legislators debate the family-leave policy, which would be paid for through employee payroll deductions.

If it does not pass by Jan. 7, when the legislative session closes, efforts to pass it would have to start from scratch.

"The biggest hurdle is the fear on the part of some legislators that they will be contributing to the decline of the New Jersey business climate," said Jon Shure, president of New Jersey Policy Perspective, a member of the NJ Time to Care Coalition, which is coordinating lobbying efforts on behalf of the bill's passage.

Attempts at state family-leave legislation are not uncommon – bills circulated through at least seven state capitols this year. In June, legislation was introduced in the U.S. Senate that would provide family-leave insurance.

The bills go beyond the federal Family and Medical Leave Act, passed in 1993, which requires businesses with more than 50 employees to give up to 12 weeks' unpaid leave a year to new parents, sick employees, and those with certain family health emergencies.

Provisions of the state bills vary, from ensuring paid leave only to care for a new child to leave in order to care for ill family members. Routinely, however, they spotlight tension between workers' needs and those of business.

Supporters of the legislation hold that current benefits are based on 1950s notions of family life, causing "a mismatch between the workforce and the workplace," said Joan Williams, director of the Center for WorkLife Law at the University of California's Hastings College of Law.

Today, Williams said, in 70 percent of households with children, all adults work outside the home and one in four families is caring for an elderly relative.

"People sort of see it as coming from both ends," she said.

"These are important things as the world changes," said Sen. Stephen M. Sweeney (D., Gloucester), sponsor of the New Jersey bill, which would take effect one year after passage. "It should be a national model."

New Jersey's proposed policy is modeled on that of California, the only state with paid family leave that offers both paternal and maternal leave and time to care for a sick relative or domestic partner.

As in California, the New Jersey plan would be paid for through deductions that come from all employees' paychecks. Those who take leave would get two-thirds of their salary – up to \$502 per week. The cost to workers has been estimated at \$1 a week by proponents. In California, the payroll deduction is about 0.5 percent.

Eligible workers would be entitled to the leave, no matter what size business employs them. Businesses with fewer than 50 workers, however, would not be required to take the employee back.

A maximum of 10 weeks leave is now in the New Jersey bill, but proponents have said they would agree to a six-week maximum. The California law, passed in 2002, enables workers to collect up to 55 percent of their salaries, capped at \$840 per week, for up to six weeks.

In April, Washington became only the second state to approve paid family leave, but it is limited to care for a newborn or newly adopted child. The law, set to take effect in October 2009, is a whittled-down version of a more comprehensive proposal battled by business.

"The business lobbies have tremendous resources," said Marilyn Watkins, policy director for the Economic Opportunity Institute, which advocated for the Washington legislation. "They can do a lot of damage."

Watkins, echoing other leave proponents, labeled the business opposition a "very knee-jerk ideological stance."

Business representatives bristle at such characterizations.

"Businesses are extremely upset at that kind of rhetoric," said Philip Kirschner, president of the New Jersey Business & Industry Association. "That is an antibusiness screed."

Kirschner and others say the policy would rob businesses of the ability to accommodate employees' individual needs. By saying "you will provide this many weeks," he said, "your flexible scheduling goes out."

Many businesses fear that paid time off would be more attractive to employees than flexible scheduling. And that would cost business, say opponents of the legislation.

Businesses would have three choices for how to handle work normally done by an employee on leave, said Kathleen A. Davis, executive vice president and chief operating officer of the Chamber of Commerce of Southern New Jersey: Shift it to other employees during their normal workday, pay overtime, or hire a temporary worker.

"That is total bull," Davis said of claims that the policy would not burden business, noting that it might cost

\$18 an hour to replace a \$12-an-hour receptionist with a temp.

Davis and other opponents argue that the policy would exacerbate New Jersey's reputation as a tough state in which to operate a business, a reputation the bill's backers say business wrongly perpetuates.

"They keep telling everybody how bad things are," Sweeney said. "We have the second-highest per-capita income. . . . We have just fallen into this rut of badmouthing our state."

"It is not a self-fulfilling prophecy," Davis fired back. "Hey, look, there's these studies out here."

Ross, of Lockheed Martin, said that in recruiting workers for its Moorestown site, his company is up against the area's high cost of living.

Job candidates are "shocked at the price of the house, then [they] look at the taxes," Ross said. The payroll deduction for family leave will be calculated into the cost of taking a job in the state.

Kelly Conklin, who owns an architectural woodworking firm in Essex County, disagrees that the policy would hurt businesses.

"It's a benefit that small businesses can offer their employees at virtually no cost." That will make them more competitive with larger firms, which can afford enticements, he said.

"It's taken me 20 years to put together a team that has the right mix of personality and skill," he said. He works to accommodate their family needs so that he will keep them. This policy would enable them to get paid, he said.

State Assemblyman John Wisniewski (D., Middlesex) summed up the struggle between workers' needs and those of business as a "balancing act." But he also asked whether the bill proposes a proper role for business.

"Is it the obligation of government to ensure no adverse outcomes" ever befall people, Wisniewski asked. "That is a great notion, but it is also an expensive notion."

Serrano, the Vineland man who would have taken more time with his dying wife if he could have afforded it, would answer yes.

"It's moral," he said. "It's a compassionate bill. It's a bill that will help so many families."

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