

# The conflicting sides of the family leave law

Amid Yahoo telecommuting furor, worker absence policy deserves a second look

BY JEFF NOWAK

Yahoo CEO Marissa Mayer stirred up a furor last week when she banned telecommuting. By coincidence, the debate came around the 20th anniversary of the Family and Medical Leave Act, signed in February 1993 by President Bill Clinton. This groundbreaking law has allowed new parents time off from their job to bond with their children and afforded workers time away to care for gravely ill family members or recover from their own serious health problems — all without fear of losing their jobs.

Count me among the lucky ones the law has benefited: It allowed me to hold my father's hand and comfort him in the days before he died of cancer. It also allowed me time to be with my three beautiful children after they were born.

But there is an ugly side to the FMLA: The law is nearly impossible for companies to administer and is susceptible to abuse. In a recent survey, the Society for Human Resource Management found that more than 60 percent of human resource professionals found it difficult to comply with the FMLA, and about 40 percent said they had to grant FMLA requests they believed to be illegitimate.

Consider some real-life situations: Doug was a sales agent for a national airline. He apparently injured his back, causing him to take leave whenever his back pain "flared up." Doug's back issues tended to flare up on the

days immediately before or after his regularly scheduled time off — 35 times. Doug got caught when he booked his airfare for a time over Christmas that he had decided he would be calling in as FMLA leave.

Then there is Sara, a customer service representative who also had excruciating back pain that required intermittent leave from work.

When she should have been home recuperating, Sara attended a festival, and photos of her beer-drinking binge were posted on social media. Sara was turned in by her co-workers.

Now, Sen. Tom Harkin, D-Iowa, and a handful of advocacy groups are clamoring for an expansion of this federal leave statute, most notably a requirement that employers provide paid FMLA leave.

Not so fast. If the government requires companies to pay for leave, it follows that they will be far less willing to allow other flexible workplace programs. Telecommuting and job-sharing all come with a cost, and companies will put less money into these programs if they must spend money on paid leave.

Congress should not heap onto American employers yet another regulation without fixing the current leave law that, in many ways, is broken.

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DAVID AKE/GETTY-AFP PHOTO 1993  
President Bill Clinton signs the family leave bill alongside a woman who had lost her job to care for her daughter.

## Family and Medical Leave Act facts

**What law allows:** 12 weeks of unpaid leave to care for babies or aging parents and recover from illness.

**Limits:** You must have been employed for more than year by a company with more than 50 workers.

**Number of times used:** 100 million

**Gender breakdown of leave takers:** 60 percent women, 40 percent men

**Proposed new law:** It would provide two-thirds of employee's wages, funded by payroll tax.

**Downside:** It cost employers \$21 billion in 2004, according to Employment Policy Foundation. Nearly 50 percent of employees notified employer on day leave began or after, the conservative group said.

SOURCE: Miami Herald

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The act was a good first step, but the measure should be expanded to cover more people

BY KIM BOBO

Last month was the 20th anniversary of the signing of the Family and Medical Leave Act, a common-sense bill that has been good for workers and for businesses.

The act is actually quite modest. It requires that large employers allow workers who have worked for them at least 12 months and 1,250 hours to take up to 12 weeks of unpaid leave and then return to their jobs.

That's all the act does. Despite the law's modest scope, passage took nine years of organizing by faith and community groups. The U.S. Chamber of Commerce and the National Federation of Independent Business opposed any family or medical leave program, calling it a job killer and an unnecessary mandate.

However, the vast majority of employers — 91 percent — report that complying with the law has had either a positive effect or no noticeable effect on employee absenteeism, turnover and morale, according to the Labor Department. And 85 percent report that complying with the FMLA is very easy, somewhat easy or has no noticeable effect.

The law, however, is only working for some. About 13 percent of eligible employees took some leave (usually not the full 12 weeks), the Labor Department said. Of those, most workers (57 percent) took it for their own illness. Almost everyone else used it to care for a new child or to care for a parent, spouse or child. As the director of a

small nonprofit, I am proud that we have a family and medical leave policy even though we aren't large enough to be covered by the law. We also have paid maternity leave, paid sick days and disability leave that people can use before resorting to unpaid leave.

As a society, we claim to care about families, but we don't want workers to care for them when sick?

The Chamber of Commerce and its lackeys continue to claim that the law is hard to administer (it's not!), that workers are abusing the program (they're not — recent studies show that fewer than 2 percent of covered work sites report confirmed misuse), and that business should be free of government standards. The U.S. has the lowest workplace standards of any industrialized nation.

The two serious problems with the law are that it only covers 60 percent of workers, and it is unpaid. Many workers need leave to care for themselves or family members but can't afford to take it.

California and New Jersey passed paid leave bills. And once again, despite Chamber of Commerce claims that the bills would kill jobs, they have worked well. States and communities are passing or hoping to pass paid sick day laws, requiring that employers provide a few sick days a year to workers. The FMLA was a good first step 20 years ago. Now is the time to pass paid family leave and paid sick days.

*Kim Bobo is executive director of Interfaith Worker Justice.*

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