



Testimony of Ann M. O’Leary

Informational Hearing of the Assembly Labor Committee with the Legislative Women’s Caucus

“A Woman’s Nation Changes Everything”: How *The Shriver Report* Impacts California’s Working Families

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Thank you, Assemblyman Monnig, Assemblywoman Saldana and Senator Romero for hosting this hearing to highlight the findings of *The Shriver Report*.

I am Ann O’Leary, Executive Director of the Berkeley Center on Health, Economic & Family Security at UC Berkeley School of Law and a Senior Fellow with the Center for American Progress. Most importantly for this hearing, I am the co-editor of *The Shriver Report*, along with my colleague Heather Boushey, a senior economist at the Center for American Progress. I am also co-author, with Karen Kornbluh, a work-family policy expert, of the chapter in *The Shriver Report* on the government’s response to women’s growing participation in the workforce, “Family Friendly for All Families: Workers and caregivers need government policies that reflect today’s realities.”

The Shriver Report: A Woman’s Nation Changes Everything is centered around three key facts:



- (1) For the first time in our history women make up half of all workers in the United States.
- (2) Mothers are now breadwinners—making as much or more than their spouse or doing it all on their own—in nearly 40 percent of families. If you add mothers who are co-breadwinners—contributing at least a quarter of the family income—you find that two-thirds of mothers are either breadwinners or co-breadwinners in their families.

These two facts alone are a dramatic shift from the late 1960s when women were one third of the workers in the United States, and only 27 percent were breadwinners or co-breadwinners in their families.

- (3) The final key fact is that not only has our workforce changed, but the make-up of our families is dramatically different than it was in the mid-1970s when women first began entering the workforce in larger numbers. In the early 1970s, approximately 52 percent of families with children consisted of a male breadwinner and a female homemaker.

Today, in California two-thirds of families with children consist of either a single parent (24%) or a dual-earner couple (42%) and so-called traditional families make up just under 1 in four of our state's families.

The current recession is only making these changes more stark – with more and more women acting as the primary breadwinners of their families and sending a clear message that this trend will only continue to increase.

In *The Shriver Report* top-notch academic and policy experts from around the country examine the major institutions in our society—government, our health and education systems, business, faith-based institutions, and the media—to analyze how they have responded to these key changes in our society and where they have fallen short. In each instance, the authors of the report find that our institutions have not adequately kept up with these changes.

Our government still relies on social policies built around the traditional family. So too does our health system with access to insurance often tied to good jobs, which are more likely to be held by men than women.

Our education system is in many ways a success story with women outpacing or matching men’s educational attainment at all levels of education. Still women remain concentrated in traditional female fields such as health and education and are falling behind in entering the higher-paying fields of the future, including science, mathematics, engineering and technology.

In business, women are half of all U.S. workers and this year women were running more than 10 million small businesses with combined sales of \$1.1 trillion. Yet, in our major corporations we still have paltry numbers of women in leadership and too few women overall who have access to the type of supports that would allow them to reach the top—flexible hours, career development, and inclusive work environments.

Too many of our faith-based institutions, which for decades relied on the volunteer work of women to keep them running, haven’t adapted to women’s new work schedules and demands. And many faith-based institutions have struggled to include women as valued leaders.

The mainstream media outlets often suggest that women have “made it,” portraying women as successful executives at the top of every profession. Yet rarely do we see the face of the millions of everyday women who struggle to make ends meet to juggle work and family.

What affect does the failure of our major institutions to respond to this new reality have on workers and families? It means individuals and families must face these problems as their own personal struggles. These “personal” struggles, however, have a negative impact on the health and well-being of our families and often cause economic detriment—from lost income to lost jobs—that has a lasting impact not only on our families, but our economy as a whole.

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Today, I’d like to focus on the finding in *The Shriver Report* that government has not done enough to create labor and social policies to support workers with dual responsibilities of work and caregiving. As we stated in the report:

Too many of our government policies—from our basic labor standards to our social insurance system—are still rooted in the fundamental assumption that families typically rely on a single breadwinner and that there is someone available to care for the

young, the aged, and the infirm while the breadwinner is at work. But now that there are decidedly fewer “traditional families” and women comprise half of the workers on U.S. payrolls, we need to reevaluate the values and assumptions underlying our nation’s workplace policies to ensure that they reflect the actual-not out dated or imagined—ways that families work and care today.

I’ll focus my remarks specifically on how California has responded to the new realities of work and family set out in *The Shriver Report* and what more our state government could do to lead the way in changing our workplace and family support policies.

In many ways and over many years, California has lead the Nation in adopting labor and social policies that have allowed workers to combine work with caregiving. *The Shriver Report* highlighted the fact that these policies are necessary for both women and men to succeed in today’s workplace. And, more recently, the Families and Work Institute found that men are experiencing work-family conflict at greater rates than women. With the increased role of both men and women combining work and care, California should examine its policies to determine if they are indeed meeting the needs of today’s workers.

I’ll focus on four observations we make in *The Shriver Report*:

- (1) We need to update our basic labor standards to include family-friendly employee benefits.**
- (2) Our social insurance system should reflect the reality of today’s varied families and new family responsibilities.**
- (3) We should ensure that our antidiscrimination laws fully protect employees against discrimination based on pregnancy and family responsibilities.**
- (4) We need to increase support to families for child care, early education and elder care to help working parents cope with their multiple responsibilities.**

Basic Labor Standards and Social Insurance:

In *The Shriver Report*, we examine government policies incentivizing employer’s to offer certain benefits, such as paid sick days; government policies requiring employer

action such as minimum wages and overtime pay; and our social insurance system offering certain governmental benefits, such as retirement and unemployment benefits, to determine if these policies meet the needs of today's families.

I'll focus today on two such policies here in California – the availability of paid family leave and the lack of workplace flexibility and predictability.

Family Leave:

California was the first state in the Nation to pass a paid family leave law, building on our State Disability Insurance system (which already provided paid leave for disabilities related to pregnancy and child birth). California Paid Family Leave went into effect on July 1, 2004, and is funded through an employee payroll tax so employers do not pay into the system. The law provides workers with six-weeks of partial pay (55% of one's income up to \$959 per week) for workers to take leave to care for and bond with a newborn or newly-adopted child or to provide care for a seriously ill family member.

While the law has allowed thousands of Californians to take leave to bond with a newborn or care for a seriously ill family member, awareness of the program still remains extremely low as compared to awareness about the State's Disability Insurance program or the national Family and Medical Leave Act. A 2007 survey demonstrated that only 28 percent of Californians were aware of the California Paid Family Leave Program. This compares to 69 percent of surveyed adults who were aware of the State Disability Insurance Program. Nationally, in 2000 (seven years after passage of the Family and Medical Leave Act), nearly 60 percent of Americans were aware of the FMLA. In California, low-income workers are the least aware of the California Family Leave Program (14 percent of workers making less than \$25,000 were aware compared to 36 percent of workers making more than \$75,000 who were aware).

In the first year of the California Paid Family Leave program, the California Employment Development Department did a broad outreach campaign, expending approximately \$1 million to educate the public about the program. Since that time, the EDD has conducted a much more traditional government-outreach campaign – producing brochures and presenting information at conferences and to employers.

The EDD is required by statute to develop and maintain a program of education concerning the disability insurance benefits, including Paid Family Leave. The EDD

is also authorized to use administrative funds collected as part of the Disability Insurance Fund for this purpose. Currently, the Disability Insurance Fund is running at surplus. The October 2009 Disability Insurance Fund Forecast (attached) projected that the surplus would be \$1.3 billion in 2009. Up to 3 percent of these funds can be used for administration of the program, including public education. This means that a major public education campaign could be conducted without needing to dedicate general funds.

- **Direct the Employment Development Department to expend existing funds from the Disability Insurance Fund surplus to further educate the public about California Paid Family Leave. This effort could go a long way to increasing awareness and increasing access to these existing benefits.**

Not only do too few workers know about California's paid family leave, but some are unable to access it due to a lack of job protection. If an employee works for an employer not covered by the California Family Rights Act (fewer than 50 employees) or has not met the eligibility requirements (1 year with the same employer and 1250 working hours), then the employee has no right to take leave and be reinstated to his or her job after that leave. This means that even though employees are paying into the California Paid Family Leave program through a payroll tax, their employer can still deny them the right to their job when they return from their leave.

- **Expand job protection under the California Family Rights Act or amend California Paid Family Leave to include anti-retaliation provisions.**

Predictable and Flexible Workplace Schedules.

There are no federal laws in place requiring or incentivizing employers to offer predictable or flexible work schedules. Low-wage workers, often working in retail, find predictability even more challenging than flexibility. When your employer changes your schedule from day to day or week to week, it makes it almost impossible to organize consistent, quality child care or elder care for your relatives.

There is much work to be done in California. Workplace flexibility and predictability are needed by workers in order to better manage their work and family responsibilities. Businesses who adopt workplace flexibility and

predictability allow their workers to choose alternative starting and ending times to their workday (e.g. 7 a.m. to 3 p.m. instead of 9 to 5 so the worker can be home after school); choose compressed work weeks; choose alternative places of work (e.g. allowing telecommuting from home so the worker doesn't have to waste time in traffic and can concentrate on work and home duties); and negotiate with workers to set predictable work hours so workers can plan in advance for family caregiving needs.

The State government could play a major role in starting a conversation about how to improve workplace flexibility and predictability and asking the conveners to make concrete recommendations for the role government and businesses should play in increasing workplace flexibility and predictability for workers with caregiving responsibilities.

A model for starting the conversation can be found in the UK. In 2000, the UK formed a Work and Parents Taskforce, consisting of business and labor leaders as well as work/family advocates, to promote innovative and competitive business practices along with the fair treatment of employees. In 2002, as a result of the work of the Taskforce, the UK passed the "Right to Request Flexibility" law. This law doesn't require employers to offer flexibility but does require employers to set up a process to discuss and negotiate workplace flexibility.

- ***Convene a Smart Business/Smart Worker/Smart Family Task Force to Advise the Governor and State Legislature.*** This task force could be charged with completing a report to the Governor and State Legislature on how to increase workplace flexibility and predictability for workers in California.
- ***Alternatively, the Legislature could introduce a bill on "The Right to Request Flexibility and Predictability."*** If California chose to follow the lead of countries including the UK, Australia and New Zealand by pushing for this legislation, it would be the first in the country to do so. This legislation does not place a mandate on employers to offer flexibility and security, but does require employers to put a process in place to allow these conversations to occur and it ensures that employees cannot be fired or otherwise retaliated against for making the request.

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California has always been ahead of the country in helping workers meet the demands of work and family. Today is no different. What is new is our changed reality—women are in the workforce to stay and families must rely on the income of working mothers. The other thing that is new is the desire to see our government and our businesses lead the way in changing our workplace policies. In a poll conducted as part of *The Shriver Report*, we found that both men and women overwhelmingly believe that government and business need to provide more flexibility in work schedules, paid family leave, and increased child care support.

Inaction on the part of the government to address these new realities and ensure that our laws meet these needs will have real negative economic consequences for our families. Men and women both need the leadership of our government to solve these problems.