

Reforming Family and Medical Leave Laws: Promoting Health and Economic Security for California's Working Families

PREFACE

CALIFORNIA WORKERS IN CRISIS

Working families in California are struggling. Workers are seeing little relief from the high unemployment levels ushered in by the Great Recession. Workers simply can't afford to lose pay or risk job loss—even when illness strikes or a family member needs care. California's budget crisis is putting added pressure on working families, as legislators weigh drastic cuts to vital programs and services that support families such as child care, elder care, and in-home health support. California legislators and policymakers are confronting unprecedented challenges addressing unemployment and balancing the budget; but in this crowded political agenda workplace policies can't be ignored. It is more important than ever before that California enact policies that create and preserve *quality* jobs—jobs that allow workers to be caregivers and productive employees. Helping workers keep their jobs, especially in an economy where hiring remains weak, is essential to promoting economic recovery in California.

DEVELOPING A SOLUTION

In light of the economic challenges facing California and its workers, the Labor Project for Working Families and Berkeley Law School's Center on Health, Economic & Family Security convened a group of experts and policymakers to develop a vision for improving state laws that support working families. Over the course of a year, this collaborative group assessed California's complex system of family and medical leave laws and developed a long-range agenda for reform. This policy brief presents the key problems and gaps in current laws, and proposes reforms that are essential to making leave accessible and affordable for working families.

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Thanks to the following individuals who provided valuable feedback to this process:

- Jennifer Richard, Former Legislative Director to Senator Sheila Kuehl
- Kate Karpilow, California Center for Research on Women and Families
- Sara Flocks, California Labor Federation
- Sharyn Tejani, National Partnership for Women and Families
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BACKGROUND

The American workplace is experiencing tremendous change. Much has been written about the increase of women in the workforce and the impact of this change on work and home.¹ In a recent survey of young workers, both men and women reported that the most important career goal to them was having a job that allowed for time with family—having a job with a good wage came in at a close second.² Even as the effects of the Great Recession continue to reverberate through our economy, the movement for family friendly workplace policies is gaining momentum.

The purpose of this paper is to highlight one important aspect of a family friendly workplace: family and medical leave. When the landmark federal Family and Medical Leave Act (FMLA) was signed into law by President Clinton in 1993, the United States took a great leap forward in recognizing and supporting workers in being both productive employees and caregivers for themselves and for their families. Unfortunately, the FMLA falls short of providing access to leave for many American workers. In the absence of significant federal reforms since 1993, the guarantee of leave for all workers remains an unrealized goal.

Despite federal inaction, states have an opportunity to improve access to family and medical leave. California has a history of setting the pace for work–family reforms. State leave laws build on federal standards by extending leave rights to domestic partners and increasing leave length for pregnancy-related illnesses, child birth, recovery and baby bonding. California has also enacted significant improvements that minimize impact on taxpayers and the budget. In 2002, California became the first state in the country to develop a paid family leave program. Since the start of the program, a minimal employee payroll tax has provided \$2.4 billion dollars to workers on leave caring for a seriously ill family member or bonding with a new child.³

Despite these achievements, many Californians are ineligible for, unaware of, and unable to access family and medical leave.⁴ Though some of the problems addressed by this paper could be resolved by reforms at the federal level, swifter reforms to improve existing state laws will bring much-needed relief to California workers. As policymakers develop an agenda to help workers keep good jobs and promote economic recovery in California, improving family and medical leave laws should be a priority.

The role and value of family caregivers to California's economy is significant. In 2007, approximately 4 million Californians provided care to elderly, disabled or chronically ill family members, devoting approximately 4.3 billion hours of care that year at a value of \$45 billion.⁵ Estimates are that the number of informal caregivers needed to care for an aging population will increase 85% between 2000 and 2050.⁶ At a time when the paradigm of a working husband and stay-at-home wife exists in only a minority of households, many of these caregivers must balance their care with the demands of work.⁷ The majority of caregivers are concerned that the economy will force them to make decisions that will negatively impact the quality of care for their loved ones.⁸ Improving leave laws is a priority for California workers and their families; and as California weighs deep cuts to vital public services to address its budget deficit, including slashing financial assistance for in-home health

support and child care services, improving leave laws and supporting family caregivers is more important than ever before.

As one worker's* testimonial shows, when working Californians have meaningful access to leave, the benefits provide a lifeline.

“My mother had Stage IV breast cancer earlier this year, and paid family leave allowed me to be able to take the time I needed off of work to travel to Texas and take care of her during her final months. There is absolutely no way I could have managed to keep my apartment (and life) here in California while taking unpaid leave from work. The huge relief all of this provided while dealing with the extremely stressful situation of caring for and saying goodbye to my mother cannot be fully explained in words. I am very grateful that I live in one of the few states that offer this benefit.”

This paper will identify the major barriers to California workers' ability to take family and medical leave to care for themselves or a family member and to bond with a new child. There are two important principles underlying this analysis that provide an important lens to evaluating California's leave laws.

FAMILY AND MEDICAL LEAVE SIGNIFICANTLY IMPROVES THE HEALTH AND WELL-BEING OF WORKING FAMILIES

One of the primary ways that workers manage their caregiving responsibilities is to take leave: 82% of parents with young children and 64% of elder caregivers have taken time off to respond to a care crisis.⁹ It is not surprising that the majority of California workers (61%) expect to need leave in the next five years, and the benefits of leave on the health and wellbeing of California's working families are well documented.¹⁰

Studies show that children recover faster from illness when parents are present to help care for them.¹¹ Especially when leave is paid, parents who take time off to care for a seriously ill child experience positive effects on their child's physical and emotional health, and an improvement in their own emotional health as well.¹² When workers take leave to care for an elder family member, stays in nursing homes and residential care facilities are delayed or avoided.¹³ Workers who take leave to recover from their own illness or disability report positive effects on their health, greater ability to follow doctor instructions, and quicker recovery times.¹⁴ Evidence also shows that women who take pregnancy disability leave experience positive health benefits, including a reduced risk of Caesarean section, increased breastfeeding, and reduced post-partum depression.¹⁵ And parental leave has significant positive effects on the health of young children, maternal health, and fathers' involvement with their babies.¹⁶

* The stories and testimonials included in this paper were drawn from submissions to the [paidfamilyleave.org](https://www.paidfamilyleave.org) website. Names have been changed or redacted to protect the privacy of the persons involved.

BUSINESSES BENEFIT BY PROVIDING FAMILY AND MEDICAL LEAVE

In a 2000 survey on the impact of the FMLA on covered businesses,¹⁷ a large majority of businesses cited no noticeable effect on their business productivity, profitability, or growth.¹⁸ Relatively few employees take leave at any one time and most leaves are short—a median length of ten days.¹⁹ Nearly all employers report that the most common method of covering for workers on leave is to temporarily reassign work.²⁰

A recent study of California's Paid Family Leave program found that initial concerns that the program would hurt business, particularly small businesses, were unfounded.²¹ Most employers in the study reported that the program had either a positive effect or no noticeable effect on productivity, profitability, turnover and morale, and small businesses were even less likely than larger businesses to report any negative effects.²² Moreover, initial fears that PFL's benefits might be abused by employees have turned out to be unfounded for nearly all (91%) of employers.²³ Providing this critical benefit to workers does not negatively affect an employer's bottom line. In fact, businesses experience significant savings through increased retention and decreased turnover, as well as cost savings from employees' ability to use PFL to replace or supplement employer-provided leave.²⁴

FAMILY AND MEDICAL LEAVE IN CALIFORNIA

California workers who need leave face two critical questions: will my job be protected while I'm on leave, including continued health insurance coverage and retention of accrued benefits? And can I get pay during my leave?

The framework for answering these questions is extremely complex. Workers may be concurrently eligible for protection under state and federal laws, and the laws governing job protection are separate from those that provide wage replacement. There are discrepancies between the state and federal leave laws and multiple administrative agencies are involved in policymaking and enforcement. This fragmented network of laws, which results in tremendous confusion for workers and employers, frustrates workers' access to leave and reduces the likelihood of employer compliance.

The following chart (page 6) summarizes the key laws about family and medical leave in California that will be addressed in this paper.

	Eligibility	Purpose	Leave Length	Job Protection Guaranteed	Health Benefits Guaranteed	Wage Replacement Available
Family & Medical Leave Act (FMLA) 29 U.S.C. § 2601, et seq.	<ul style="list-style-type: none"> One year in service 1,250 hours worked 50+ employees 	<ul style="list-style-type: none"> Serious health condition Caregiving Bonding with a new child 	12 weeks	YES	YES	NO
CA Family Rights Act (CFRA) Cal. Gov. Code § 12945.2	<ul style="list-style-type: none"> One year in service 1,250 hours worked 50+ employees 	<ul style="list-style-type: none"> Serious health condition (except pregnancy) Caregiving Bonding with a new child 	12 weeks	YES	YES	NO
Pregnancy Disability Leave Law (PDL) Cal. Gov. Code § 12945 (b)(2)	<ul style="list-style-type: none"> 5+ employees 	<ul style="list-style-type: none"> Pregnancy-related condition Childbirth Recovery from childbirth 	4 months	YES	NO	NO
Disability Insurance Program (DI) Cal. Unempl. Ins Code	<ul style="list-style-type: none"> Contribute to SDI Fund 	<ul style="list-style-type: none"> Health condition, including pregnancy-related disabilities, childbirth, and recovery from childbirth 	52 weeks	NO	NO	YES (55% of weekly earnings, up to a cap)
Paid Family Leave Program (PFL) Cal. Unempl. Ins. Code § 3300, et seq.	<ul style="list-style-type: none"> Contribute to SDI Fund 	<ul style="list-style-type: none"> Caregiving Bonding with a new child 	6 weeks	NO	NO	YES (55% of weekly earnings, up to a cap)

MAJOR BARRIERS TO TAKING FAMILY AND MEDICAL LEAVE

In addition to the complexity of family and medical leave laws in California, there are five key problem areas that result in too few workers taking leave when they need it:

1. Exclusionary eligibility rules;
2. Restrictions on family caregiving;
3. Lack of affordability;
4. Low public awareness;
5. Limited enforcement and remedies.

1. Exclusionary Eligibility Rules

Other than for pregnancy leave (which is covered by the Pregnancy Disability Leave (PDL) law), workers in California generally qualify for family and medical leave through the California Family Rights Act (CFRA). Unfortunately, CFRA strictly limits the number of workers who are eligible under the law. The primary barriers workers face in qualifying to take leave in California is the exclusion of workers at small businesses and stringent workforce attachment standards in CFRA.

Small Business Workers

Eligibility rules in CFRA (like the FMLA) define small businesses as employers with 50 or fewer employees. Workers employed at businesses of fewer than 50 employees therefore have no access to job-protected family and medical leave through CFRA.²⁵ Nationally, approximately 90% of employers, employing about 40% of the workforce, are outside the scope of this provision.²⁶ In California, an estimated 6.9 million workers are employed at businesses with fewer than 50 employees.²⁷ These workers may only take family leave at their employer's discretion, with few legal protections. This means that millions of California workers have no meaningful access to leave without fear of job loss or retaliation.

The exclusion of workers in small businesses disproportionately impacts low-wage workers. Nationally, more than half of all low-wage workers are employed by small businesses.²⁸ Small businesses are also more likely to employ workers with a high school education or less.²⁹ These workers are already disadvantaged by less access to employer-provided benefits, such as paid time off, health insurance, and retirement plans.³⁰ Excluding low-wage workers from the protections of leave laws adds one more burden on families already struggling in low-quality jobs.

California's small business employees, just like workers in larger businesses, nevertheless contribute payroll taxes that qualify them for partial wage replacement during leave through the Disability Insurance (DI) and Paid Family Leave (PFL) programs.³¹ But workers at small businesses are less able to access the benefits they paid for, because without the protection of CFRA and FMLA, their employer can legally fire or retaliate against them for taking leave. Statistics on take-up rates for California's PFL program show that workers employed by larger businesses are substantially more likely to utilize the program than workers employed by smaller businesses. A 2007 report found that individuals who worked for large employers (1,000+ employees) accounted for nearly half of all paid family leave claims, but represented only 14 percent of the California workforce.³²

This lack of job-protected leave for California's small business workers creates an unfair disparity in the workforce that is not matched by other California leave laws. Several laws providing access to leave do not uniformly exclude workers in small businesses. For example, the PDL guarantees job-protected leave for pregnancy-related conditions to workers at businesses of five employees or greater.

Workforce Attachment Rules

Even workers at qualifying businesses must show sufficient attachment to the workforce to be eligible for leave under CFRA. Like the FMLA, CFRA measures attachment by both annual hours worked and job tenure. Eligibility for leave is restricted to workers who have worked at least 1250 hours in the year preceding leave and have at least one year of job tenure with their current employer. These standards don't account for changes in the workforce, and as a result almost one-fifth of U.S. workers at covered employers are ineligible for leave because of the workforce attachment rules.³³

With the recent economic downturn came a tremendous rise in the number of part-time workers, including workers involuntarily pushed into part-time positions for economic reasons.³⁴ Historically, women have comprised the majority of part-time workers in the U.S., and many women work in part-time positions because of caregiving responsibilities.³⁵ Part-time workers are already disadvantaged by lower pay and less access to employer-provided benefits. While some part-time workers are covered by the law, in California about 2.4 million employees in covered businesses work reduced hours schedules that don't meet CFRA's minimum hours requirement.³⁶ And under current law, a part-time worker may never qualify for leave no matter how long their tenure at a business.

The minimum hours and job tenure requirements in combination fail to account for the rise of nonstandard jobs (including part-time and temporary work), which constituted a rising share of the workforce even before the current recession.³⁷ New hires and workers in time-limited positions can face both chronic and unexpected health problems—but CFRA provides no benefits or protection to this growing percentage of the workforce. These requirements are too exclusionary and are an inadequate measure of workforce attachment in today's economy.

2. Restrictions on Family Caregiving

California's family caregivers can take leave to care for a seriously ill parent, child, spouse, or domestic partner. However, CFRA and the PFL program provide no benefits or protection to workers caring for family members outside these narrow categories. And CFRA, unlike the PFL program, excludes adult children who are not dependents from the list of covered family members. These restrictions fail to account for the diversity of California households and the importance of caregiving by extended family members.

In a recent Alzheimer's Association poll, about 40 percent of Alzheimer's caregivers provide care to a relative that is not covered under the narrow definition of family used in both the FMLA and CFRA.³⁸ Another study found that nearly 20 percent of primary caregivers for chronically disabled individuals are neither the spouse nor the child of the person receiving care.³⁹ Caregivers of extended family members in California are not only excluded from the protection of CFRA, but they are also denied access to the PFL program to help defray the costs of caregiving. According to a 2007 study, about 10% of PFL claims were rejected because the caregiver was not a covered family member.⁴⁰ Of the PFL care claims denied, 35% were for siblings, 19% were for grandparents, and 10% were for in-laws.⁴¹

3. Lack of Affordability

Evidence shows that access to pay is a critical issue for workers who need leave. Before the PFL program was in place, 79% of California workers who needed but did not take leave did so because they could not afford it.⁴² Fortunately, nearly all California workers have access to partial wage replacement during leave through the DI and PFL programs. Still many families face economic hardship because of limits to the length and amount of wage replacement through these programs.

Some workers are also forced to pay out-of-pocket costs to continue their health insurance coverage during leave. Because of these limitations, leave remains largely unaffordable for many California workers.

Wage Replacement

Workers on leave for their own health condition, including pregnancy leave, qualify for partial wage replacement for the full length of job-protected leave through the DI program. In contrast, workers on leave to care for a seriously ill family member or to bond with a new child do not have access to pay for the full leave length. The PFL program is currently limited to six weeks of wage replacement—just half the length of job-protected leave through CFRA. This discrepancy in access to pay devalues the importance of caregiving and bonding leave to working families.

For both the DI and PFL programs, the amount of pay during leave is capped at 55% of income and subject to a maximum benefit amount. Restricted to just over half of their regular income during leave, low-income families in particular cannot afford to take leave. Low-wage earners are the only income group who do not take PFL in proportion to their share of the workforce.⁴³ The loss of income during leave is especially acute for workers of color who disproportionately hold low-wage jobs.⁴⁴

The DI and PFL programs are entirely funded by worker contributions. While these benefits are a lifeline for working families in California, limits on the amount and length of program benefits deter workers from participating in the program. In a recent study of the PFL program, nearly a third of respondents who knew about the program but did not apply reported that they felt the level of wage replacement was too low.⁴⁵

Health Insurance Coverage

While the PDL generally provides greater protection for new and expectant mothers than other leave laws, in one critical aspect the PDL falls short: health insurance coverage. Workers on leave under the PDL are not guaranteed continued employer-provided health insurance coverage. Workers who qualify for concurrent coverage through FMLA benefit from that law's health insurance coverage guarantee, but many workers in small businesses are excluded from the FMLA and are on leave only pursuant to the PDL. Although CFRA does guarantee the continuation of health insurance coverage, the law does not apply to pregnancy-related conditions. Also, anti-discrimination laws only protect pregnant workers if the employer has a policy or practice of continuing health benefits for other disability leaves. The result is that many pregnant women and new mothers can be terminated from coverage at the time they need it most.

For eligible workers, the coordination of FMLA, CFRA and PDL gives new mothers in California expanded leave rights: after finishing pregnancy disability leave, California law guarantees up to twelve weeks of bonding time through CFRA. But for too many new mothers, this is an empty right. Current regulations limit employers' obligation to continue health coverage to 12 total weeks,

beginning from the first day of pregnancy disability leave.⁴⁶ Most new mothers use up the majority of their twelve weeks of coverage during their pregnancy disability leave. Despite having the right to leave time for bonding thereafter, many new mothers can't take bonding leave because their health coverage can be terminated.

4. Low Public Awareness

Of all the leave laws available to California workers, the federal FMLA is the most well known. Yet even awareness of that law is low: only slightly more than half of employees at FMLA-covered businesses report awareness of the law.⁴⁷ Highly paid and supervisory workers are more likely to know about their rights to leave than lower-income workers.⁴⁸ Knowledge of California's family leave laws, which extend protections beyond the federal standards in many cases, is generally less widespread among California workers.⁴⁹

Despite the fact that California workers contribute a portion of every paycheck to the PFL program, knowledge of the benefit is strikingly low. Studies evaluating awareness of California's PFL program demonstrate that the law's current employee-notification requirement, which only requires employers to notify their employees of the PFL program when starting a new job or requesting leave, is an insufficient mechanism to increase awareness. In 2008, only 29% of Californians were aware of the law—a much lower percentage than for other state and federal programs.⁵⁰ In a recent study of the PFL program, more than half of workers who had experienced a life event the program was designed to cover did not know the program existed.⁵¹

Low awareness of this critical benefit results in many working families not accessing a program that could significantly ease the financial strain associated with caregiving obligations. In a California study of parents of chronically ill children—arguably among the working families who most need access to leave—only 18% of employed parents had even heard of the PFL program.⁵² Although the Employment Development Department has an outreach unit for the PFL program, current resources dedicated to outreach are too small to increase widespread public knowledge of the benefit.

5. Limited Enforcement and Remedies

Workers who need or take leave often face lingering risks of retaliation and unfair treatment because of a workplace culture that can be hostile to caregivers. Studies show that workers with known or perceived family responsibilities are discriminated against in hiring and promotion, and harassed, demoted or fired.⁵³ Women bear the greatest burden of caregiver discrimination, as evidenced by a 50% increase in pregnancy discrimination charges in the last decade, but men who participate in family caregiving also face significant penalties.⁵⁴ Legal hotlines in California are experiencing dramatic increases in the number of workers seeking help with work-family issues.⁵⁵

Workplace cultures can have as much or more influence on leave-taking as formal laws or policies. About 37% of respondents in a study of the PFL program reported being worried that if they took PFL, their employer would be unhappy, their opportunities for advancement would be affected, or they might actually be fired.⁵⁶ Unsupportive work cultures can undermine the effectiveness of leave laws as a real option for balancing work and family. Thus, leave laws must be accompanied by good enforcement and effective and accessible remedies.

Workers in California who allege a violation of their right to family and medical leave, pregnancy leave and accommodations, and disability accommodations must file an administrative charge with the California Department of Fair Employment and Housing (DFEH), the agency charged with enforcing CFRA and PDL. Those with access to private lawyers typically request an immediate right-to-sue letter and proceed to court. However, litigation can be lengthy and burdensome, and relief may come too late. For example, by the time a lawsuit ends, a worker may have unnecessarily lost her job and health insurance, or have lost the opportunity to care for a loved one during a critical illness.

Historically, those seeking to enforce their rights through the DFEH administrative process have faced additional obstacles. A 2009 UCLA-RAND study analyzing enforcement of employment discrimination laws in California showed that complainants at DFEH have faced long delays for investigations and achieved less favorable results than those with private counsel.⁵⁷ Low-wage earners are disproportionately less likely to obtain private lawyers, and therefore must rely on the DFEH for enforcement of their rights. Fortunately, DFEH has recently developed new case management systems that have shown to improve settlement results and reduce delays for complainants in the administrative process.⁵⁸ These notable improvements at DFEH were made at a time of rising caseloads and reduced budgets. Unfortunately, in the current budget crisis the DFEH faces the potential for staggering budget cuts that put these improvements at risk.

Without adequate enforcement, workers will continue to cut short or delay leaves because of fear of retaliation. Given the nature of family leave claims, traditional remedies are inadequate to meet the needs of workers whose access to leave has been impeded or denied. Reforms are needed to incentivize employer compliance and develop new or strengthened enforcement mechanisms to make leave rights in California meaningful.

Call for Reform

California can and should be a leader in promoting and protecting workers' rights to family and medical leave. The state's landmark laws and programs are meaningful only to the extent that workers know about and can access leave for themselves and their families when they need it. There are attainable solutions to the problems with current leave laws that must be adopted.

The following reforms are essential to improving leave rights in California:

- Expand the number of workers who qualify for family and medical leave by amending CFRA's eligibility standards, including business size, annual hours worked, and job tenure.
- Remove restrictions on family caregiving by extended family members by expanding the list of covered family members in CFRA and PFL.
- Make leave more affordable by increasing the amount and length of wage replacement through the PFL program, and by protecting health insurance coverage for pregnancy leave through the PDL program.
- Increase public awareness of the PFL program by dedicating resources to strategic outreach to California workers.
- Increase enforcement of leave laws by incentivizing employers' compliance and developing quicker enforcement mechanisms.

ENDNOTES

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- ¹⁷ A covered business employs 50 or more employees in 20 or more workweeks in the past 12 months. Covered businesses include public agencies (federal, state, and local) and private sector employers.
- ¹⁸ Waldfogel, *supra* note 14.
- ¹⁹ *Id.*
- ²⁰ *Id.*

- ²¹ Appelbaum & Milkman, *supra* note 4, at 4.
- ²² *Id.*
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- ⁴² Ruth Milkman & Eileen Appelbaum, *Paid Family Leave in California: New Research Findings*, in THE STATE OF CALIFORNIA LABOR 45 (U.C.L.A. Institute for Labor and Employment ed., 2004).
- ⁴³ Sherriff, *supra* note 32.
- ⁴⁴ U.S. DEP'T OF HEALTH & HUM. SERV., APSE RESEARCH BRIEF: WHO ARE LOW-WAGE WORKERS?, <http://aspe.hhs.gov/hsp/09/LowWageWorkers/rb.pdf>; BUREAU OF LAB. STAT., LABOR FORCE CHARACTERISTICS BY RACE AND ETHNICITY: EARNINGS (2008), http://www.bls.gov/cps/race_ethnicity_2008_earnings.htm.
- ⁴⁵ Appelbaum & Milkman, *supra* note 4.
- ⁴⁶ CAL. CODE REGS. tit. 2, § 7297.5(C)(2) (2011).
- ⁴⁷ Gerstel & Armenia, *supra* note 24.
- ⁴⁸ *Id.*
- ⁴⁹ Milkman & Appelbaum, *supra* note 41.
- ⁵⁰ Milkman, *supra* note 10.
- ⁵¹ Appelbaum & Milkman, *supra* note 4.
- ⁵² Schuster et. al., *supra* note 11.
- ⁵³ JOAN C. WILLIAMS & HEATHER BOUSHEY, THE THREE FACES OF WORK-FAMILY CONFLICT: THE POOR, THE PROFESSIONALS, AND THE MISSING MIDDLE (2010), <http://www.americanprogress.org/issues/2010/01/pdf/threefaces.pdf>.
- ⁵⁴ *Id.*; Equal Employment Opportunity Commission (EEOC), Pregnancy Discrimination Charges, EEOC and FEPAs Combined: FY 1997-FY 2009, <http://www.eeoc.gov/eeoc/statistics/enforcement/pregnancy.cfm> (last visited May 13, 2010).
- ⁵⁵ The Legal Aid Society-Employment Law Center (LAS-ELC), a legal services organization based in San Francisco CA, recorded 150 callers to its Work & Family Helpline in January 2010—a 50% increase in the average number of monthly calls from the year prior. In 2010 LAS-ELC helped approximately 1000 callers seeking assistance with work and family issues.
- ⁵⁶ Appelbaum & Milkman, *supra* note 4.
- ⁵⁷ UCLA-RAND, CALIFORNIA EMPLOYMENT DISCRIMINATION LAW AND ITS ENFORCEMENT: THE FAIR EMPLOYMENT AND HOUSING ACT AT 50 (2010), <http://newsroom.ucla.edu/portal/ucla/california-s-employment-discrimination-153584.aspx> (showing that only six out of seven complainants receive no monetary remedy. The median amount received by those who obtained monetary relief was only \$3000 over the study period).
- ⁵⁸ Tim Muscat, *The DFEH Investigative Process and How to Avoid Litigation*, CALIFORNIA DEPARTMENT OF FAIR AND EMPLOYMENT AND HOUSING (Presentation to the National California Employment Roundtable, January 26, 2011), available at <http://www.dfeh.ca.gov/DFEH/Announcements/roundtables.aspx>.