Preface

When my son was only six months old, he became very ill and was hospitalized at our local children’s hospital for several days. During that time, my husband and I took turns sitting by his bedside round the clock. Both of our employers had formal paid sick leave policies and we didn’t think twice about being away from work.

At the time, I was working and writing full-time about work-family policy. Despite my expertise on the subject, I watched and wondered as I noticed that the infant in the next crib over only had visits from his parents once a day, very late at night. I asked the nurse about his situation and, while she couldn’t give me specifics about the case, she reminded me that many parents didn’t have the right or simply couldn’t afford to take unpaid time off when they had an ill child.

To see the lack of paid sick days so starkly was shocking. Yet for millions of workers in California, when a child spikes a fever or a working parent falls ill, this is the very reality they face. In fact, only 65 percent of employees in the United States have access to paid sick days, meaning that as many as 47 million individuals – approximately 5 million here in California – go without this very basic form of protection in the workplace.

This is a shame given the impressive evidence suggesting that a universal paid sick days law can boost productivity and promote public health, including reducing the spread of contagious diseases. It also ensures that parents can be with their kids when they most need them, with research indicating that allowing parents time to care for their children can lead to better health outcomes.

These protections are particularly important for working mothers who not only make up half of labor force and are the sole or primary breadwinner in 40 percent of U.S. households, but are more likely to lack access to paid sick days at work. When working women fall out of the labor force or lose their income because they fall ill, there is a tangible ripple effect that captures children and other family members in its wake.

California has a long and proud history of providing commonsense protections – from Pregnancy Disability Leave to the recently expanded Paid Family Leave – that soften the tension between raising a healthy family and holding down a job. A statewide paid sick days law that allows people time to rest and recover or help care for an ill child is a logical extension of pro-family public policy.

The Healthy Workplaces, Healthy Families Act of 2014 (AB 1522) would provide three paid sick days to all workers in California. This is a basic floor that, like the minimum wage, sets a standard that no employer may choose to fall below.

The following brief, written by my colleagues at Next Generation, provides the latest evidence on access to and use of paid sick days and demonstrates why the conversation taking place in California should be about how much protection is enough, not about whether we should offer it in the first place.

Indeed, our partners at the local and national level are pushing for more expansive laws. I hope that the passage of AB 1522 will lead to a greater discussion of the need for these laws nationally, and will build the necessary momentum to pass these laws at the local, state, and national levels.

In the end, however, this debate is about that very modest premise: No one should lose their job or their income because of an illness they could not avoid or because of the need to care for a sick child. Families simply should not be forced to choose between making rent and fighting the flu, or guessing whether they can cover their grocery bill if they stay home to watch over a sick child.

If California affirms this principle, it will have made history providing a necessary protection to the largest workforce in the nation.

Ann O’Leary
Vice President & Director
Children & Families Program
Executive Summary

It is a fact that every employee will get sick at some point in his or her life. When that happens, those who work for businesses that do not offer paid sick days to their employees are forced into difficult choices between their health and income.

Approximately 5 million Californians lack paid sick days protection. For these employees, life is a delicate balancing act – when, inevitably, they become ill, they can either go to work while battling illness, or they can choose to stay home and lose out on a day’s pay. Sometimes, the decision to stay home can cost them their jobs. And if these workers are parents or family caregivers, the choices are harder still.

Access to paid sick days has increased ten percent among private-sector employees in the last two decades, yet only 65 percent of working Americans can take days off for illness. Access to this leave is uneven: those least likely to have paid sick days are those employed by the food service and personal care industries. The people who are disproportionately represented in those industries – Hispanics, women, and low-wage or part-time employees – are less likely than other groups to receive paid sick days.

There is overwhelming popular support for laws that guarantee a certain number of paid sick days for all employees. Moreover, research suggests that sick day laws may improve productivity, protect vulnerable employees in low-income industries, and support public health by preventing the spread of contagious illnesses.

Based on this evidence, seven local jurisdictions and one state have implemented paid sick day laws. With the introduction of the “Healthy Workplaces, Healthy Families Act” (AB 1522, Gonzalez), California is in a unique position to become a national leader on paid sick days. The legislation would provide a basic level of three paid sick days per year to nearly every working Californian, without risking employment or income.

The current version of the bill is in step with other paid sick days laws in effect throughout the country in many important ways, particularly with respect to rate of accrual and the allowable uses of paid sick days. But it is not as expansive in terms of the number of days guaranteed, and California legislators will need to evaluate the appropriate level of coverage for individuals who need more than this basic protection. Employees who suffer from a chronic illness, who are raising children on their own, or who have very low incomes are likely to need more than three days each year. Additionally, future legislatures will need to refine the law’s approach to important details like enforcement and access.
I. Introduction

At some point, every employee will get sick or will have a family member get sick and need care. When that happens, those who work for businesses that do not offer employees access to paid sick days are forced into difficult choices between their health and necessary earnings, between caring for an ill child or earning a day’s wages to pay the bills, or even between taking a day to recover or losing their job.

Access to paid sick leave is uneven, with disparities based on industry, family income, single parent status, full-time status, and race or ethnicity. Research suggests that individuals, their employers, and the public at large stand to gain tremendously from laws that guarantee a paid sick days standard.

Paid sick days laws have been gaining momentum around the country. In 2006, San Francisco was the first jurisdiction to pass a law requiring that employers provide a common baseline of paid sick leave. Since then, seven other jurisdictions, including large cities such as New York and Washington DC, have passed similar laws. These laws have proven to be popular: 75 percent of surveyed Americans favor guaranteed sick days for all employees,\(^1\) and nearly 85 percent of Californians believe there should be a law giving all employees seven paid sick days per year.\(^2\)

California’s legislature is in the midst of debating a paid sick days law that would guarantee a minimum level of paid time to almost all employees in the state. It would be only the second state to pass such a law (the only other is Connecticut), and could potentially affect millions of people. While many employers offer paid sick days to their employees, approximately 5 million working Californians lack this benefit.\(^3\) Advocates have voiced concerns that the bill is not expansive enough, while spokespersons for the business sector are largely focused on the perceived costs associated with this legislation.

This issue brief will outline various jurisdictions’ experiences with paid sick days laws to date, including the laws’ impacts on businesses, individuals, and the general public. In addition, it offers suggestions for how California’s proposed sick days law could be strengthened and aligned with similar laws already on the books to maximize its potential benefits.
In January 2014, Assemblymember Lorena Gonzalez introduced AB 1522, the “Healthy Workplaces, Healthy Families Act,” which would require employers to offer at least three paid sick days to all employees. It is not the first attempt to pass a California paid sick days law; in 2009 and 2011, Assemblymember Fiona Ma introduced such bills, based on the success of the first paid sick days law in San Francisco. Both of Ma’s bills would have provided for working Californians to earn a minimum of five paid sick days per year. Fiscal committee analyses suggested these bills would incur the state’s budget a significant cost because they would have extended the provision to the state’s In-Home Supportive Services workers. Both bills failed to pass out of the Assembly Appropriations Committee. If California were to pass the current proposed statewide paid sick days bill, its reach would represent a significant expansion of this labor standard, given that California is home to 12% of America’s workforce.

In addition to these efforts at the state level, local governments within California have initiated campaigns to require employers to offer some number of paid sick days to all or some of their employees. For example, a coalition of advocates and union leaders in Oakland are pursuing a ballot measure that would guarantee at least five paid sick days for employees, along with an increase in the city’s minimum wage. A similar effort is underway in San Diego, and a campaign in Los Angeles would guarantee paid sick days to individuals employed by hotels.

II. Paid Sick Days in California
National access to paid sick days has increased 10 percent among private-sector employees in the last two decades, yet still only 61 percent of these employees earn paid sick days. Those with greater access to paid sick days tend to be full-time and high-wage workers, as well as employees in architecture and engineering, computers and mathematics, and the life, social, and physical sciences. White, Black, and Asian non-Hispanic individuals are also more likely than Hispanic individuals to have access.

Those least likely to have paid sick days include employees in the food service and personal care industries, along with those in the farming, fishing and forestry, and construction sectors. The people who are disproportionately represented in these industries – Hispanics, women, and low-wage or part-time employees – are less likely than other groups to receive paid sick days.

Although there is no California data set that describes paid sick days access by demographic and industry groups, the state has large numbers of people working in industries that traditionally lack paid sick days. California is home to over three million employees in the retail trade and leisure and hospitality sectors alone. Additionally, roughly one in five employed Californians works part time and 15.6 percent of working-age Californians (nearly 3.7 million people) live in poverty – two factors that are commonly associated with low access to paid sick days.

Analysis of employees in two major California cities confirms these trends. In San Francisco, part-time employees, low-wage workers, and those in the hospitality, construction, retail, and service sectors had the least access to paid sick days before that city enacted the Paid Sick Leave Ordinance (PSLO). In San Diego, 44 percent of the city’s private industry employees lack paid sick days. Only 45 percent of Hispanic employees in the city have paid sick days, as opposed to 60 percent of black and white non-Hispanic employees. These statistics are especially compelling given that 34 percent of California’s labor force is Hispanic.

III. Access to Paid Sick Days


### Private Sector Access to Paid Sick Days

<table>
<thead>
<tr>
<th>Category</th>
<th>Percent of workers without access*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender</strong></td>
<td></td>
</tr>
<tr>
<td>Women</td>
<td>38</td>
</tr>
<tr>
<td>Men</td>
<td>40</td>
</tr>
<tr>
<td><strong>Race/Ethnicity</strong></td>
<td></td>
</tr>
<tr>
<td>White, non-Hispanic</td>
<td>36</td>
</tr>
<tr>
<td>Black, non-Hispanic</td>
<td>38</td>
</tr>
<tr>
<td>Hispanic</td>
<td>53</td>
</tr>
<tr>
<td>Asian, non-Hispanic</td>
<td>34</td>
</tr>
<tr>
<td>Other, non-Hispanic</td>
<td>45</td>
</tr>
<tr>
<td><strong>Hours Worked Per Week</strong></td>
<td></td>
</tr>
<tr>
<td>20-34</td>
<td>74</td>
</tr>
<tr>
<td>≥35</td>
<td>30</td>
</tr>
</tbody>
</table>

Table 1
IV. The Benefits of Paid Sick Days

Studies show the benefits of paid sick days policies accruing to individuals, the organizations that employ them, and even the broader public. The sections below review relevant evidence for these groups.

A. Benefits to Individuals & Families

Research suggests that paid sick days contribute to an individual’s overall health.\(^{16}\)

Employees tend to recover from illnesses more quickly when they can take time off work,\(^{17}\) and employees with paid sick days are more likely to see the doctor and use preventative screenings than those without.\(^{18}\)

These types of interventions can help prevent minor or chronic illnesses from becoming more severe and may prevent unnecessary trips to the emergency room.\(^{19}\) One study estimates that the reductions in emergency room usage as a result of paid sick days could save the nation $1.1 billion annually, with $500 million in savings from public health programs.\(^{20}\)

Family members of employees with paid sick days are also likely to reap health benefits. The availability of paid sick days is “the primary factor in parents’ decisions about staying home when their children are sick.”\(^{21}\) Without paid sick days, parents may leave their children alone or send them to a child care facility sick, potentially exacerbating the spread of illness.\(^{22}\) Adult family members can also benefit from the policy – individuals live longer and recover more quickly from serious conditions, such as a stroke or heart attack, with the support of family members.\(^{23}\)

B. Benefits to Employers & Business

Paid sick days policies can also generate significant economic gains for employers. Research suggests that providing paid sick days can reign in health care and insurance costs for companies by decreasing the risk of workplace injuries\(^{24}\) and improving the management of long-term illnesses, such as diabetes.\(^{25}\) Paid sick days policies that allow employees to take time off when family members are ill have been identified as a work-family benefit that positively affects profits.\(^{26}\)

Family-friendly workplace policies that inspire loyalty and lessen the distraction and fatigue that work-family conflicts can create also lessen employee turnover, which can be costly for businesses.\(^{27}\) These policies improve job satisfaction, which has an added positive effect on profitability.\(^{28}\)

“Without paid sick days, parents may leave their children alone or send them to a child care facility sick, potentially exacerbating the spread of illness.”

Importantly, employers also stand to benefit from decreased “presenteeism,” a term for the practice of reporting to work while sick.\(^{29}\) Sick employees have lower-than-normal productivity and risk spreading contagious diseases in the workplace, endangering the health and productivity of their co-workers.\(^{30}\) Studies estimate that presenteeism costs U.S. businesses as much as $160 billion per year in lost productivity.\(^{31}\) Employees who lack paid sick days are more likely to report to work ill than those with access to such a benefit, suggesting that paid sick days could curb this cost.\(^{32}\)

Evidence from existing ordinances indicates that there is little risk of economic drawbacks due to paid sick days policies. Job growth in San Francisco, for example, remained stronger than surrounding counties in the years following the adoption of the PSLO, even during the great recession.\(^{33}\) In Connecticut, the Department of
Labor has observed *job growth* in industries heavily impacted by the state’s paid sick days policy, such as hospitality, and *job cuts* in unaffected sectors, such as manufacturing. Similarly, a Washington D.C. audit of its paid sick days law eased fears that employers would relocate in the wake of its policy, finding that a strong majority of businesses were not discouraged by the new requirements.

Contrary to some fears, paid sick days laws often lead to no or to minimal employer cost increases. In Connecticut, an employer survey revealed that 77 percent of employers have experienced either no cost increase, or one of less than 2 percent as a result of their statewide paid sick days law.

Researchers found that nearly six out of seven San Francisco employers did not experience “negative profitability effects from the PSLO.” A senior Vice President at San Francisco’s Chamber of Commerce, the PSLO’s main opposition, has acknowledged how unproblematic the ordinance has been for business, characterizing the policy’s impact as “minimal.” Further, the former executive director of the Golden Gate Restaurant Association similarly stated that PSLO is “the best public policy for the least cost.”

**Public Health Benefits**

In addition to the benefits to businesses of paid sick days laws, research suggests that expanding this benefit can produce significant public health gains, primarily from reductions in the spread of contagious diseases.

Food preparation and service employees are both unlikely to have paid sick days and in a position to spread illness widely. Only 24 percent of food preparation and service employees have paid sick days. Food service employees reporting to work while ill contribute to the spread of infections, yet a large majority of them (70 percent of women and 67 percent of men) acknowledge reporting to work and “cooking, preparing, or serving food while sick.” A New Jersey study placed that figure even higher, at 80 percent. These employees, who are often forced to choose between recovering from an illness or earning a paycheck, have at times contributed to public outbreaks of infectious disease. In 2006, for example, a Michigan restaurant employee without paid sick days infected 350 customers with norovirus.

Paid sick days also protect the health of children in schools and child care facilities. Parents with paid sick days are far less likely to send a sick child to school, preventing the spread of illness among classmates and their families.

“[Paid Sick Leave] is the best public policy for the least cost”
– Kevin Westlye, Former Executive Director, Golden State Restaurant Assoc.

There is even evidence that paid sick time can help contain the spread of influenza. A study following the 2009 H1N1 outbreak estimated that a quarter of workplace infections could be traced to employees who came to work sick. Other researchers found that providing universal paid sick days decreased workplace influenza infections by nearly 6%, while allowing employees two paid “flu days” decreased the spread of influenza at work by almost 40 percent.
V. Current Paid Sick Days Laws

Based on this evidence, seven local jurisdictions and one state have implemented paid sick days protections. The details of these laws differ in a few significant ways.

Paid sick days laws commonly use employer size to determine employee eligibility, accrual rate, and maximum annual allowance. Some statutes, such as the law in Connecticut, also base eligibility on industry or occupation while others include carve outs – or exemptions from certain requirements – for small businesses and their employees. Although, recent paid sick days laws are trending toward smaller carve outs. For example, both New York City and Washington DC have amended their laws to reduce exemptions. See Table 2 for details of these laws.

Every public paid sick days law sets an annual floor of at least five paid sick days for employees of large firms, and three of the eight laws impose a higher threshold for large employers.48 While five of the policies include exemptions for small employers, they generally require these firms to provide their employees with job-protected sick days, either through an equal number of unpaid days or a lower number of paid days.

All of these laws include job-protection provisions, meaning that jobs must be held for employees who take paid sick days. The provisions include language prohibiting retaliation against employees, employer penalties for those found in violation of the law, and enforcement requirements. In addition, some laws include enforcement provisions such as a private right of action and rebuttable presumption, which provide strong protection of workers’ rights (see examples of employee protections in the box on page 12).

Further, most paid sick days provisions in the United States use complaint-driven enforcement systems, relying on employee reporting to identify non-compliant employers. However, both Jersey City and New York City recently adopted an alternative, proactive enforcement model that allows authorities to independently investigate and audit employers, in addition to acting on employee complaints. See the box below for more information about proactive enforcement models.
<table>
<thead>
<tr>
<th>Location</th>
<th>Effective Date</th>
<th>Max. Number of Sick Days</th>
<th>Rate of Accrual (Hours Worked: Paid Sick Hours Earned)</th>
<th>Other Eligible Uses**</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Francisco, CA</td>
<td>2007</td>
<td>9 ≥10 employees</td>
<td>30:1</td>
<td>NA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 &lt;10 employees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington D.C.</td>
<td>2008</td>
<td>7 ≥100 employees</td>
<td>37:1</td>
<td>safe days</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 25–99 employees</td>
<td>43:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 ≤24 employees</td>
<td>87:1</td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td>2012</td>
<td>5 ≥50 employees; only applies to employees in specified job categories</td>
<td>40:1</td>
<td>safe days</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0 0–49 employees; employees outside specified job categories</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seattle, WA</td>
<td>2012</td>
<td>9 ≥250 employees</td>
<td>30:1</td>
<td>safe days; public health emergency</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7 50–249 employees</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 5–49 employees</td>
<td>40:1</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>0 &lt;5 employees</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Portland, OR</td>
<td>January, 2014</td>
<td>5 ≥6 employees</td>
<td>30:1</td>
<td>safe days; public health emergency</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 unpaid job-protected</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>&lt;5 employees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jersey City, NJ</td>
<td>January, 2014</td>
<td>5 ≥10 employees</td>
<td>30:1</td>
<td>public health emergency</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 unpaid job-protected</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>&lt;10 employees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York, NY</td>
<td>April 1, 2014</td>
<td>5 ≥5 employees and domestic workers</td>
<td>30:1</td>
<td>public health emergency</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 unpaid job-protected</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>&lt;5 employees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Newark, NJ</td>
<td>Expected May, 2014</td>
<td>5 ≥10 employee &amp; ALL food service, child care, &amp; home health care workers</td>
<td>30:1</td>
<td>public health emergency</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 &lt;10 employees</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 2


** All laws in this chart allow paid sick days to be used to care for self or family and routine and preventative care. Safe days allow employees to use paid sick days for reasons related to sexual assault, domestic abuse, and, in some cases, stalking.
With the introduction of the Healthy Workplaces, Healthy Families Act (AB 1522), California is in a unique position to become a national leader on paid sick days. The legislation would provide a basic level of three paid sick days per year to nearly every working Californian.

The current version of the bill (as amended on March 28, 2014) is in step with other paid sick days laws in effect throughout the country in many ways, particularly with respect to the rate of accrual and the allowable uses for paid sick days (see box below for a description of some of the bill’s details). Notably, the bill does not exempt In-Home Supportive Services workers, though these workers may enter into an agreement whereby they receive a wage adjustment in exchange for paid sick days.

The law differs from those in effect in other locations in one important respect, however: the number of paid sick days available to employees. While nearly every enacted paid sick days provision in the country provides protections for people to accrue five paid sick days, or equivalent unpaid days, AB 1522 requires only a minimum of three days, or 24 hours of sick leave protection.

The Assemblywoman’s choice of three days of paid sick leave keeps the fiscal note attached lower than previous paid sick days bills attempted in California, and therefore may have a higher chance of passage. It is also not without rationale: three days of leave may be sufficient for many people.

Evidence suggests that the average employee takes fewer than the maximum allowed paid sick days in a given year. In San Francisco, a third of employees did not take any paid sick days in the past year, while the median full time employee took only two. Among those employees who took paid sick days, the median employee used four days. In Connecticut, researchers found similar usage patterns. About a third of eligible individuals didn’t use any of their paid sick days within a year of the survey, and the median employee used about three days. These figures align well with results from the 2012 National Health Interview Survey, which indicate that the average employed adult misses four workdays per year due to health issues.

However, certain groups are more likely to need more than three paid sick days per year, and are particularly vulnerable to the lack of job-protected leave. In particular, employees with chronic health conditions, those in or near poverty, and parents are most likely to require five or more paid sick days to successfully manage their personal and professional responsibilities. And any person in any given year may need more days to care for an ill parent or for themselves.
California’s Healthy Workplaces, Health Families Act
(AB 1522, Gonzalez)  As amended March 28, 2014

Number of paid sick days: 3

Accrual: Employees would accrue sick days at a rate of one hour for every thirty worked. New employees would work for seven days before sick days would begin to accrue, and sick days would be available for use after 90 days of employment.

Uses: Employees would be allowed to use paid sick days for their own illness or the illness of a close family member. Days may be used for issues related to domestic violence, sexual assault or stalking.

Exemptions: There are currently no exemptions included in the bill for small businesses, and only employees covered by a collective bargaining agreement are exempted from the bill requirements.54

Enforcement Provisions: Major enforcement provisions include:

- Penalties and Complaints: Employer penalties would be levied for failure to provide paid sick days, improper record keeping procedures, and failure to post information about the rights contained in the law in the workplace. Employee complaints would be used to identify non-compliant employers.

- Anti-retaliation: Anti-retaliation provisions would provide a strong protection to employees through a “rebuttable presumption of unlawful retaliation,” under which an employer would be assumed to have unlawfully retaliated against an employee if their discharge, demotion, other punishment occurs within 90 days of that employee filing a complaint under the paid sick law, cooperating with a related investigation, or opposing a practice or policy prohibited by the law.

- Private right of action: Private right of action would give employees the right to file a civil suit against an employer who fails to comply with paid sick days laws, regardless of whether they file an administrative complaint.

A. Employees with Chronic Health Conditions

Unfortunately, chronic illnesses are becoming more common in the United States. By 2030, it is expected that chronic conditions such as diabetes, asthma, heart disease, and cancer will affect nearly half of all Americans.55 Unsurprisingly, people facing chronic illnesses tend to require more sick days per year. In San Francisco, the median employee with a chronic health condition takes five paid sick days per year.56 These days are critical to the ongoing management of health issues, such as diabetes, asthma, and hypertension.

B. Employees with Low Wages

Individuals who earn a low income are at a higher risk for health issues and are more vulnerable to financial hardship. While a large portion of low-earning private sector employees lack paid sick days, they are also more likely to experience higher rates of asthma and high blood pressure, for example, than their more affluent counterparts.57

Employees in or near poverty are also, by definition, prone to economic instability. Disruptions in income, like lost wages from an unpaid sick day, can undermine a family’s financial stability when they live paycheck to paycheck, as 44 percent of employed individuals do most or all of the time.58 Missing more than three days of work in a month could cost a low-income family of four their entire grocery budget.59
C. Parents

Parents’ need for paid sick days is greater than that of employees without children. Studies show that over two-thirds of children will miss school for illness or injury at some point during the year. More than a third of all families have an illness burden of two weeks, meaning family members will miss fourteen or more school or work days in a given year, while a quarter of all families have an illness burden totaling more than three weeks.

“Missing more than three days of work in a month could cost a low-income family of four their entire grocery budget.”

The average parent without an at-home caregiver should expect to take off four work days per year to care for their children – in addition to the sick days a working parent may need for his or her own illnesses. In San Francisco, about four out of five parents take at least one paid sick day in a given year, with a median usage of four days.

However, parents, especially mothers, often lack paid sick days. Worse, mothers with children who have chronic conditions are somewhat less likely than other mothers to have access to paid sick days.

Single parents may feel the pinch most of all. Single parents are less likely to have access to paid sick days than their married counterparts, are more likely to have children with health problems, and more likely to have low wages. The average annual income for a single mother is $23,000, which places many single-earner households close to the federal poverty line. All of these factors make paid sick days particularly vital to the health and prosperity of families headed by a single parent. About one in five (19.7 percent) California households are led by a single head of household.
**Proactive Enforcement**

AB 1522 (Gonzalez) includes several enforcement mechanisms that will help protect employees who take paid sick days. Anti-retaliation provisions, private right of action, and sufficient employer penalties are important protections included in the bill.

However, AB 1522 – like laws in many jurisdictions with paid sick days – will likely rely on complaint-driven enforcement, requiring employees to lodge a complaint before an investigation begins or remedies are enforced.

These complaint-based enforcement systems are attractive because they can be easily incorporated into existing municipal or state structures, demanding few additional resources. Yet, evidence indicates that these common complaint-based methods for enforcement may not adequately protect employees.

Washington D.C.’s Department of Employment Services has received only two formal complaints between May 2008 and November 2012. Connecticut’s Wage and Workplace Standards Division saw only three formal complaints in two years. Indeed, relying on complaints places the burden of reporting on employees, many of whom may lack the knowledge or confidence to do so. In such a system, even if officials become aware of an infraction, they may be unable to act without an official employee complaint.

For example, a 2010 study found that 15 percent of San Francisco employers (4,000 companies employing 16,500 people) did not offer any paid sick days to their employees, over two years after the enactment of the PSLO. In the same study, almost 45 percent of surveyed employees identified at least one violation of the policy at their place of work that would be grounds for an official complaint. Despite this evidence, fewer than 300 actual complaints concerning the PSLO were filed between February 2007 and September 2012.

Recognizing that the current complaint-based system is inadequate to fully protect employees, Jersey City and New York City have included provisions granting authorities the ability to proactively investigate and enforce their paid sick days laws. San Francisco’s Board of Supervisors – citing significant underreporting of likely violations – has even recommended proactive enforcement that would allow the Office of Labor Standards Enforcement to target “high violation industries” and use anonymous tips, which are difficult to pursue in the current system, to launch employer investigations.

While AB 1522 creates a basic paid sick days standard, reliance on a complaint-based enforcement system makes it difficult to ensure access and enforcement of that standard. Policymakers should consider the benefits of proactive enforcement and continue to assess the effectiveness of current enforcement mechanisms to ensure that every person that needs paid sick days has effective access to the time they have earned.
Paid sick days laws serve a vital public purpose by enhancing the productivity of employees, defending families against economic headwinds that could cripple household finances, and protecting public health. As a significant body of research suggests, the need for paid sick days is acute for vulnerable populations. Without such a law, millions of people are unable to balance their jobs, their health, and their personal responsibilities to their families.

With the introduction of California’s Healthy Workplaces, Healthy Families Act, California is poised to offer paid sick days as a minimum labor standard to 12% of America’s workforce. The legislature and the Governor should carefully consider the well-documented benefits – and the clear popularity – of a statewide paid sick days law.

The proposed legislation has some notable strengths, namely the universal coverage of all employees, regardless of the size of the employer. We recommend that the bill maintain its inclusion of small businesses. Employees of small businesses are often left out of labor protections and benefits, though they are no less likely to need them. Certainly employees of small businesses should be guaranteed the ability to return to work after an illness, at a bare minimum.

Nationally at least five days of paid sick leave has become the standard, and that level of protection better addresses the needs of vulnerable employees, including those with chronic health conditions, low-wage workers, and single parents. The Healthy Families Act (S. 631/H.R. 1286) introduced at the federal level, goes farther and sets the floor at seven sick days.

However, AB 1522 may face the same fate as its predecessors if it were to be amended to provide five days of paid leave. That is why the legislature should pass and the Governor should sign AB 1522 as an important first step in providing a basic minimum labor standard to California employees, and future legislatures should study whether this protection meets the need of the most vulnerable individuals. If it does not, then future legislatures should consider expanding the law.

In addition, while it is vital to maintain the current enforcement provisions in the legislation, legislators considering AB1522 and related bills in the future should consider enforcement mechanisms that allow relevant state authorities the power to investigate and intervene on behalf of employees who are less able to do so on their own. This type of provision will help expose active or potential abuse that has historically been left to weaker, complaint-based models.

With the protections in AB 1522 as it is currently written, California would become the largest state in the nation to affirm an employee’s right to recover from an illness without losing necessary wages, working while sick, or even facing unemployment. State policymakers now have the opportunity to establish this common sense minimum protection into the state’s labor laws, and in the process protect millions of hard working Californians.

Conclusion
Notes


4 In 2009, Assemblymember Ma introduced AB 1000, and in 2011 she introduced AB 400.


9 Ibid.


17 Vicky Lovell, “Universal Paid Sick Leave.” Id.

18 Lucy Pepins and others, “The Lack of Paid Sick Leave as a Barrier to Cancer Screening and Medical Care-Seeking: Results from the National Health Interview Survey,” BMC Public Health 12 (520) (2012).

19 Kevin Miller, Claudia Williams, and Youngmin Yi, “Paid Sick Days and Health: Cost Savings from Reduced Emergency Department Visits” (Washington: Institute for Women’s Policy Research, 2011).

20 Ibid.


25 Vicky Lovell, “Universal Paid Sick Leave.” Id.


30 Vicky Lovell, “No Time to Be Sick: Why Everyone Suffers When Workers Don’t Have Paid Sick Leave,” Id.
32 Tom Smith and Jibum Kim, “Paid Sick Days: Attitudes and Experiences,” Id.
41 Ibid.
42 Jane Farrell and Joanna Venator, “Paid Sick Days,” Id.
43 Mary Gatta and Matt Unrath, “Down the Shore, Everything’s (Not) All Right: The Economic Insecurity of Restaurant Workers on the Jersey Shore” (Washington: Wider Opportunities for Women, 2014).
46 Ibid.
48 Vicky Lovell, “Universal Paid Sick Leave.” Id.
51 Ibid., p.212.
55 Some of this increase can likely be attributed to the aging of America’s population. However, there is also evidence that the prevalence of chronic disease among working-age individuals is steadily rising. One study found that the percentage of working-age individuals with a chronic condition increased from 34% in 2001 to 39% in 2007. This rise has been closely linked to a growing obesity rate. For more information see: Gerard Anderson, “Chronic Care: Making the Case for Ongoing Care,” (Princeton: Robert Wood Johnson Foundation, 2010) and Ha T. Tu and Genna R. Cohen, “Financial and Health Burdens of Chronic Conditions Grow,” (Washington DC: Center for Studying Health System Change, 2009). Available at http://www.hschange.com/CONTENT/1049/1049.pdf
59 Ibid., p. 7.
61 S. Jody Heymann, Alison Earle, and Brian Egleston, “Parental Availability for the Care of Sick Children,” Id.
62 Vicky Lovell, “No Time to Be Sick: Why Everyone Suffers When Workers Don’t Have Paid Sick Leave,” Id.
64 S. Jody Heymann, Alison Earle, and Brian Egleston, “Parental Availability for the Care of Sick Children,” Id.

65 Ibid.


69 Alexa Delwiche, “Legislative Analyst Memorandum Re: Implementation Status of the Paid Sick Leave Ordinance (BOS File No. 018-09).” (City and County of San Francisco Board of Supervisors Office of the Legislative Analyst, 2009).


72 Alexa Delwiche, “Legislative Analyst Memorandum Re: Implementation Status of the Paid Sick Leave Ordinance (BOS File No. 018-09),” Id.


76 See note 5 above.