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Redefining "Disability" for the Benefit of Workers.

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The arrival of a newborn is usually a joyous occasion and a cause for celebration. But oftentimes the mood is soon tempered by the reality of time off from work, or family leave, necessary to care for the bundle of joy. Paid family leave is ostensibly the logical solution, but logic does not always prevail in the halls of legislative chambers.

Recently I attended a panel discussion *Mandating Paid Sick Leave* featuring Sara Flocks and sponsored by the [Drum Major Institute](#) here in New York City. Paid sick leave has been a hot button issue. According to a policy report recently released by the [Mobility Agenda](#), no federal or state laws exist to guarantee that employers offer paid sick days. But California is in the forefront, setting trends. In 2007, San Francisco implemented a new

labor standard providing nine sick days for full-time workers. One year later, in March 2008, the District of Columbia became the second jurisdiction in the nation to guarantee paid sick days for workers. Under D.C. law, workers are provided from three to seven paid sick days annually. In addition to paid sick days, workers can also take paid "safe" days to seek services related to domestic violence.

A movement is underway in the state of New York to guarantee paid family leave, as a supplement to paid sick days. As it now stands, the 1993 federal Family and Medical Leave Act provides unpaid family and medical leave for a certain category of workers. Employees who have been on the job for a minimum of one year and have accrued 1,250 work hours during the previous 12 months, can take up to 12 weeks of unpaid, job protected leave to care for a newborn child. Financial compensation during the leave is provided via short-term or temporary disability insurance, jointly funded by employers and employees.

The Working Family Time to Care Act proposed in New York puts forth a solution that allows working families to care for themselves without risking economic security. Currently, New York's Temporary Disability Insurance (TDI) program provides some wage replacement during a worker's own non-work related temporary disability. The Time to Care Act proposes to expand on these provisions to also cover a worker who needs time off to care for a newborn baby or newly adopted child, or a seriously ill family member. Workers would receive up to 12 weeks of benefits, funded through a modest increase in premiums paid willingly in the existing TDI program.

The notion of pregnancy or childbirth being classified as a 'disability' and family leave being covered by Temporary Disability Insurance offended my feminine sensibilities. So in an email exchange with Donna Dolan, Chair of the New York State Paid Family Leave Coalition, www.timetocareny.com, I asked whether rethinking the definition of "disability" would impact the approach to paid family leave nationwide. According to Ms. Dolan, "compared to the rest of the world, the United States does not value families with respect to their policies. In a 2007, a Harvard/ McGill University study looking at 167 countries, the United States is one of only four that does not provide paid family leave to new parents. We are in the company of Liberia, Swaziland, and Papua New Guinea."

But Ms. Dolan remains optimistic about the success of her campaign. She wrote, "Since New York State has had short term disability for decades, paid family leave would be an extension of an existing program. We are looking at California and New Jersey as models. ... Once we achieve paid family leave for New York State's workforce, we will measure the success by ensuring that a massive outreach and education plan is adopted to inform the public of this benefit and by tracking usage of the benefit by new parents and for sick family members".

As the New York State Legislature considers the Working Families Time to Care Act in the week ahead, here's hoping logic prevails.

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