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**Testimony from A Better Balance for New York City Council Committee on Consumer Affairs and Business Licensing Hearing on Int. No. 2448-2021 Providing paid time to employees who accompany a child to receive a COVID-19 vaccination injection or care for a child with COVID-19 vaccine side effects**

**November 16, 2021**

**by Sherry Leiwant, Co-President and Co-Founder, Molly Weston Williamson, Director of Paid Leave and Future of Work Program, and Cassandra Gomez, Staff Attorney**

A Better Balance (“ABB”), a national nonprofit advocacy organization based in New York, uses the power of the law to advance justice for workers so they can care for themselves and their loved ones without jeopardizing their economic security. Through legislative advocacy, direct legal services and strategic litigation, and public education, our expert legal team combats discrimination against pregnant workers and caregivers and advances supportive policies like paid sick time, paid family and medical leave, fair scheduling, and accessible, quality childcare and eldercare. When we value the work of providing care, which has been long marginalized due to sexism and racism, our communities and our nation are healthier and stronger.

To that end, we have been leaders in the fight for paid sick leave around the country for over a decade. Here in New York City, we helped draft the Earned Safe and Sick Time Act and negotiated the final terms of the legislation. In this unprecedented crisis, we have worked with lawmakers at the federal, state, and local levels to draft, pass, and implement emergency sick leave legislation and paid vaccine leave in relation to COVID-19. As our city works to stop the spread of this devastating virus, we must all work together to eliminate barriers to accessing the vaccine for New Yorkers of all ages. We are thrilled that this important piece of legislation is being considered and we urge this committee to move forward with and pass Intro. 2448-2021.

**I. Paid vaccine leave is a critical point of access for COVID-19 vaccines and allowing workers to take time off to help their children receive and recover from the vaccine will increase the vaccination rate amongst children.**

While it is well understood that receiving the COVID-19 vaccine is the most effective way to prevent the spread of COVID-19 and serious illness associated with it,<sup>1</sup> since vaccinations have been available, workers nationwide have struggled to receive the vaccine because they have not had time off to receive the vaccine and recover from related side effects. From early on in the vaccine distribution effort in the U.S., workers—especially Black and Latinx workers—were hesitant to get vaccinated because of concerns about missing work to receive and recover from the vaccine.<sup>2</sup> Workers have been clear that access to paid time off to get vaccinated and recover from any side effects would make them more likely to get vaccinated.<sup>3</sup>

The need for vaccine leave has remained a constant, even several months after vaccines were initially made available to adults in the U.S. In June 2021, workers whose employers provide paid time off to get the vaccine or recover from any side effects were 24% more likely to have received at least one dose of the vaccine than workers whose employers provided no paid vaccine leave.<sup>4</sup> And, as with most work-related issues, historically marginalized workers have been the most likely to suffer from a lack of vaccine leave. Workers with lower household incomes (under \$40,000) are less likely than high income earners to receive paid leave to receive and recover from the vaccine.<sup>5</sup> This barrier to access has resulted in much lower vaccination rates for low-income adults as compared to higher-income adults.<sup>6</sup> Given that nearly four in ten children under the age of 12 live in households with incomes below 200% of the federal poverty level, the correlation between income and vaccination rates will likely carry over to children as we head into the latest phase of the vaccine roll out.<sup>7</sup>

Understanding how critical paid leave is to vaccine uptake, many jurisdictions throughout the country, including New York State, enacted laws that provide paid leave in relation to the COVID-19 vaccine.<sup>8</sup> However, under New York State's vaccine leave law, workers are only able to utilize their paid vaccine leave to receive their own personal vaccine injections.<sup>9</sup> Now that children ages 5 and up are eligible to receive the vaccine, working families in New York City will need immediate access to paid leave to help family members receive and recover from the vaccine. In particular, New York City's working parents—especially working mothers—urgently need the COVID-19 child vaccination time that would be provided under Intro. 2448-2021. A majority of moms report being primarily responsible for their child's healthcare (including vaccinations) and a staggering 61% of working mothers are responsible for caring for their sick children when they are unable to go to school, such as when they're recovering from side effects of the COVID-19 vaccine.<sup>10</sup> However, an unconscionable 46% of working mothers report going without pay while they take that time off to care for their children.<sup>11</sup> Our city must ensure that responsible parents do not have to lose pay in order to shield their children from the virus.

Many jurisdictions have enacted legislation that gives workers time off to help their family members get vaccinated. The federal government allows its employees to take paid leave to receive and recover from the vaccine and help their family members get vaccinated; Pittsburgh, Pennsylvania similarly gives covered workers (in both the public and private sector) the right to paid leave to receive the vaccine and help family members receive the vaccine.<sup>12</sup> Workers in Massachusetts are able to take paid leave to receive and recover from the vaccine and help family members receive and recover from the vaccine<sup>13</sup>—workers in Washington, D.C. will soon have similar vaccine leave rights when the mayor signs a recent unanimously adopted bill.<sup>14</sup> And most recently, Mayor de Blasio issued an order granting all New York City employees up to 4 hours per child of paid time to accompany their child to receive each vaccine dose.<sup>15</sup> We



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enthusiastically urge the Council to follow suit and ensure Intro. 2448-2021's passage. The children and workers of our city are depending on it.

**II. Intro. 2448-2021 is a strong bill that will work well for our community. We recommend two changes to make this bill even stronger.**

The legislation proposed today would add to the existing sick time law the right to take COVID-19 child vaccination time for workers to accompany children to receive the COVID-19 vaccine and recover from related side effects. This COVID-19 child vaccination time is in addition to earned safe and sick time under existing law. We strongly support this bill and believe that it will work well for New Yorkers in these unprecedented times.

We are delighted that this bill gives workers time off related to their children's COVID-19 vaccinations that is both separate from and in addition to workers' earned safe and sick time. While the city has been clear that workers can use their earned safe and sick time under the New York City law for purposes related to the COVID-19 vaccine,<sup>16</sup> it's important that New Yorkers be able to access their earned safe and sick time for non-COVID related reasons. Following the past year and a half of quarantine and isolation, as the city reopens and New Yorkers resume pre-COVID activities, our immune systems are adjusting to increased exposure to common bacteria and viruses—workers and their families will continue to deal with typical illnesses, such as colds and the seasonal flu, and will need their earned safe and sick time for reasons beyond COVID.<sup>17</sup>

We are also very glad to see that this bill requires that all workers receive paid COVID-19 child vaccination time, regardless of their employer's size. This is a critical detail of Intro. 2448-2021 and will undoubtedly serve the city well and increase the likelihood that parents will get their children vaccinated. Additionally, we strongly support that this bill as written will be in effect retroactively to November 2, 2021. This retroactivity will allow workers to recoup paid leave for hours of time off work that may have been taken between November 2—the date that the CDC declared that children ages 5 to 11 are eligible for the COVID-19 vaccine<sup>18</sup>—and the date the bill is eventually passed.

This bill is also wisely drafted so that it could potentially cover booster shots or third doses as needed. New York State's vaccination leave law is similarly crafted,<sup>19</sup> and the state has recently clarified that workers can use their vaccine leave to receive booster shots.<sup>20</sup> As the CDC monitors the need for young children to receive booster shots or additional doses, the council will do well by New Yorkers by leaving room for COVID-19 child vaccination time for future injections.

To make this bill even stronger for New York families, we recommend the following changes. First, we strongly recommend amending the bill to give workers access to more paid time off to care for children recovering from the COVID-19 vaccine. According to the CDC, most people who experience side effects following COVID-19 vaccine injections get better within one to two days.<sup>21</sup> However, the CDC also notes that side effects “are more frequent and severe . . . among younger people.”<sup>22</sup> Under the current bill, workers are only entitled to take up to four hours of COVID-19 child vaccination time to both accompany their child to receive the vaccine *and* care for their child during their vaccine recovery. We encourage the Council to increase the amount of paid time off available to workers so that they are able to take at least 16 hours (two 8-hour workdays) of time to care for their children post-vaccine injection. This should give parents a sufficient amount of time to care for their children pursuant to CDC guidance.

We also recommend expanding this bill to allow workers to take time off to assist family members, as defined in the Earned Safe and Sick Time Act, in receiving their vaccine injections and to care for family members recovering from the vaccine. Now more than ever, caregiving is extended out to family relationships beyond just that of parent and minor child—many workers are also responsible for helping, for example, elderly family members receive the vaccine. As mentioned above, giving New Yorkers paid time off to assist and care for family members more broadly will match the approach that other jurisdictions have taken to help increase vaccination rates. The federal government, Massachusetts, and Pittsburgh, Pennsylvania all give workers varying access to paid leave in relation to family members’ vaccinations.<sup>23</sup> This change will honor New York’s diverse families, and will help workers protect all of their closest loved ones.

Alternatively, if expanding the bill to cover family members generally is not possible, we recommend broadening the scope of who qualifies as a “child” for the purpose of COVID-19 child vaccination time. As written, the bill specifies that child vaccination time can only be used for children under the age of 18. This age limitation deviates from the Earned Safe and Sick Time Act’s definition of “child,” which does not specify an age limit. For this bill, we recommend adopting the same scope of persons that qualify as a worker’s child as is used in the Earned Safe and Sick Time Act. This change will be particularly important for parents of children with disabilities or underlying medical conditions—these parents may need to support their adult children in receiving and recovering from COVID-19 vaccine injections. Further, in Mayor de Blasio’s order allowing city employees time off to help their children get vaccinated, the Mayor more broadly defined “child” to mean “a biological, adopted, or foster child, stepchild, a legal ward or a child with respect to whom the employee stands in loco parentis, under the age of 18 years of age, or age 18 or older and incapable of self-care because of a mental or physical disability, and eligible to receive the COVID-19 vaccine.”<sup>24</sup> In lieu of our aforementioned primary recommendation above, we recommend using the definition of “child” from Mayor de Blasio’s order to set the scope of COVID-19 child vaccination leave.



While our city has long been on the forefront of protecting workers via our groundbreaking earned paid sick time law, passing Intro. 2448-2021 will be crucial to protecting the children of New York and stopping the spread of COVID-19. As a city that was once the epicenter of the coronavirus pandemic in the U.S., we must do all that we can to ensure that we never again let COVID-19 cases rise to the levels of the worst peaks of the pandemic. By moving forward with and passing Intro. 2448-2021, the Council Committee will take a huge step forward for our community's ongoing recovery.

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<sup>1</sup> See *CDC COVID-19 Study Shows mRNA Vaccines Reduce Risk of Infection by 91 Percent for Fully Vaccinated People*, Ctrs. for Disease Control & Prevention (June 7, 2021), <https://www.cdc.gov/media/releases/2021/p0607-mrna-reduce-risks.html>.

<sup>2</sup> Samantha Artiga & Liz Hamel, *How Employer Actions Could Facilitate Equity in COVID-19 Vaccinations*, Kaiser Family Found. (May 17, 2021), <https://www.kff.org/policy-watch/how-employer-actions-could-facilitate-equity-in-covid-19-vaccinations/>.

<sup>3</sup> *Id.*

<sup>4</sup> *Workers Are More Likely to Get a COVID-19 Vaccine When Their Employers Encourage It and Provide Paid Sick Leave, Though Most Workers Don't Want Their Employers to Require It*, Kaiser Family Found. (June 30, 2021), <https://www.kff.org/coronavirus-covid-19/press-release/workers-are-more-likely-to-get-a-covid-19-vaccine-when-their-employers-encourage-it-and-provide-paid-sick-leave-though-most-workers-dont-want-their-employers-to-require-it/>.

<sup>5</sup> Liz Hamel et al., *KFF COVID-19 Vaccine Monitor: September 2021*, Kaiser Family Found. (Sept. 28, 2021), <https://www.kff.org/coronavirus-covid-19/poll-finding/kff-covid-19-vaccine-monitor-september-2021/>.

<sup>6</sup> *COVID-19 Vaccination Rates: State-level and Subpopulation Evidence from the Household Pulse Survey—Update 4*, State Health Access Data Assistance Ctr. (Mar. 25, 2021), <https://www.shadac.org/news/covid-19-vaccination-rates-state-level-and-subpopulation-evidence-household-pulse-survey-0>.

<sup>7</sup> Jennifer Kates et al., *The Next Stage of COVID-19 Vaccine Roll-Out in United States: Children Under 12*, Kaiser Family Found. (June 30, 2021), <https://www.kff.org/policy-watch/the-next-stage-of-covid-19-vaccine-roll-out-in-united-states-children-under-12/>.

<sup>8</sup> *Know Your Rights: COVID-19 Vaccination Leave*, A Better Balance (Nov. 11, 2021), <https://www.abetterbalance.org/resources/know-your-rights-covid-19-vaccination-leave/>.

<sup>9</sup> N.Y. Lab. Law § 196-C.

<sup>10</sup> Usha Ranji, *Role of Mothers in Assuring Children Receive COVID-19 Vaccinations*, Kaiser Family Found. (May 24, 2021), <https://www.kff.org/womens-health-policy/issue-brief/role-of-mothers-in-assuring-children-receive-covid-19-vaccinations/>.

<sup>11</sup> *Id.*

<sup>12</sup> A Better Balance, *supra* note 8.

<sup>13</sup> *Id.*

<sup>14</sup> See Washington, D.C. B24-0404 – COVID Vaccination Leave Emergency Amendment Act of 2021, *available at* <https://lms.dccouncil.us/Legislation/B24-0404>.

<sup>15</sup> A Better Balance, *supra* note 8.

<sup>16</sup> *COVID-19 and Paid Sick Leave*, NYC Consumer & Worker Prot. (Nov. 2021), <https://www1.nyc.gov/assets/dca/downloads/pdf/workers/COVID-19-Paid-Sick-Live-English.pdf>.



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<sup>17</sup> Michelle Crouch, *Why Summer Colds Are Spiking*, AARP (July 29, 2021), <https://www.aarp.org/health/conditions-treatments/info-2021/summer-colds.html>.

<sup>18</sup> *CDC Recommends Pediatric COVID-19 Vaccine for Children 5 to 11 Years*, Ctrs. for Disease Control & Prevention (Nov. 2, 2021), <https://www.cdc.gov/media/releases/2021/s1102-PediatricCOVID-19Vaccine.html>.

<sup>19</sup> See N.Y. Lab. Law § 196-C.

<sup>20</sup> *Paid Leave for COVID-19 Vaccinations*, New York State Dep't of Labor (Oct. 12, 2021), [https://dol.ny.gov/system/files/documents/2021/10/cd6-paid-leave-for-covid19-vaccinations-10-12-21\\_0.pdf](https://dol.ny.gov/system/files/documents/2021/10/cd6-paid-leave-for-covid19-vaccinations-10-12-21_0.pdf).

<sup>21</sup> *Post-vaccination Considerations for Workplaces*, Ctrs. For Disease Control & Prevention (Apr. 2, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/workplaces-businesses/vaccination-considerations-for-workplaces.html>.

<sup>22</sup> *Id.*

<sup>23</sup> A Better Balance, *supra* note 8.

<sup>24</sup> Mayor's Personnel Order No. 2021/2, New York City, NY (Nov. 8, 2021), <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2021/mpo-2021-2.pdf>.