



May 2, 2017

Vote NO on H.R. 1180, the Working Families Flexibility Act of 2017

Dear Representative:

On behalf of the American Civil Liberties Union and our more than two million members and supporters, we urge you to oppose H.R. 1180, the Working Families Flexibility Act of 2017, because it offers employees a false promise of flexibility that could undermine meaningful access to adequate leave for child care and other family responsibilities.

Today, more than two-thirds of employees are in dual income families, and about nine percent of all families are headed by single working mothers.¹ More than 80 percent of single-parent families with children are headed by mothers.² These families face increasing child care and elder care demands, and would benefit from greater workplace flexibility—which would allow workers to balance family and work obligations without fear of discrimination, loss of income, or an employer’s reprisal. Unfortunately, H.R. 1180 is not what working families need.

This legislation amends the Fair Labor Standards Act (FLSA) in order to permit private sector employees to choose compensatory time off instead of monetary overtime pay if an agreement is reached to do so between the employer and employee before the work is performed. Yet the bill would give employers broad discretion to turn down requests for compensatory time if it would “unduly disrupt” business operations. Thus, the time banked in order to meet a pressing family obligation might not be available when needed. Additionally, although the bill requires employers to comply with numerous new rules that protect employees who participate in the program, there are no additional Department of Labor resources dedicated to ensure compliance and to educate employees about their rights under the new law. In a similar vein, while H.R. 1180 outlines protections for employees against coercion, intimidation, and wage theft, there are no administrative remedies available and employees would have to go to court to enforce their rights.

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¹ “Employment Characteristics of Families,” 2015. In *2011-2015 American Community Survey 5-Year Estimates*, U. S. Census Bureau (2015), https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_5YR_S2302&prodType=table.

² “Family Groups: 2016,” Table FG10. In *America’s Families and Living Arrangements: 2016*, U. S. Census Bureau (2016). <https://www.census.gov/data/tables/2016/demo/families/cps-2016.html>.

Finally, the bill suffers from this fatal flaw: Congress cannot purport to help workers—many of whom earn low wages and struggle to achieve financial stability—by asking them to swap overtime pay for scheduling flexibility to meet their families’ needs. This is a false choice that inures to the benefit of employers, not employees; it is not a step forward for working families. Consistent with the policy underlying the FLSA overtime requirement, employees should be compensated for the extra time they work (and spend away from their families). At the same time, working families should be able to take advantage of workplace flexibility policies that allow them to tend to their families. Both are required and both are possible.

Instead of advancing H.R. 1180, we encourage members of the House of the Representatives to support legislation like the Pregnant Workers Fairness Act, the Healthy Families Act (H.R. 1516/S. 636), and the Family and Medical Insurance Leave Act (H.R. 947/S.337) that truly address some of the needs of today’s working families.

We urge you to vote NO on H.R. 1180, the Working Families Flexibility Act of 2017. If you have any questions, please don’t hesitate to contact Vania Leveille at 202-715-0806 or vleveille@aclu.org.

Sincerely,



Faiz Shakir
National Political Director



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