

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL RIGHTS

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HELD AT: 250 Broadway - Committee Rm,
14th Fl.

B E F O R E:
DEBORAH L. ROSE
Chairperson

COUNCIL MEMBERS:
MARGARET S. CHIN
JULISSA FERRERAS
ANDY L. KING
JAMES G. VAN BRAMER

[gavel]

CHAIRPERSON ROSE: The Committee on Civil Rights is now called to order. Good afternoon. My name is Debbie Rose and I'm the chair of the Committee on Civil Rights. Today we will be hearing an introductory bill number 863, a local law to amend the administrative code of the city of New York in relation to prohibiting employment discrimination based on an individual's actual or perceived status as a caregiver. I am pleased to be joined today by the bill's sponsor and now our next Manhattan Borough President, Council Member Gale Brewer as well as my fellow committee members; Council Member King. And I would like to also recognize and thank my committee council Julienne Beckfort[phonetic] and policy analyst Brian Footer[phonetic]. And I'd like to also acknowledge that this is the last Civil Rights Committee hearing of the year and of my first term. So I'd just like to say thank you to everyone who has contributed to the efficient and stellar functioning of this committee; the city council staff, the sergeants of arms, my staff, and as

1
2 previously mentioned committee council and policy
3 analyst.

4 Caregiver discrimination also refers,
5 also referred to as family responsibility
6 discrimination occurs when employers treat
7 employees with caregiving responsibilities for
8 children, older adults, or ill or a disabled family
9 members less favorably than other employees. There
10 are no explicit protections under federal, state,
11 or local law for workers in this position. Although
12 there are some cases where an employee can make a
13 viable argument under existing anti-
14 discriminatory [phonetic] , discrimination laws,
15 sorry, that were laws that they were discriminated
16 against because of their family responsibilities.
17 There are no guarantees for protection or more
18 importantly for workplace accommodations. Intro
19 number 863 seeks to address the gaps in the current
20 law that limit workplace protections for
21 individuals with family responsibilities. These
22 responsibilities don't only include pregnancy,
23 childbirth, or the raising of children. And women
24 may not be the only ones with family
25 responsibilities. Both men and women could be

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2 responsible for a domestic partner, a spouse, a
3 child, or a parent. The needs may not be for a
4 months, for months away from work. It could be as
5 simple as the need to take a few phone calls during
6 the day or have a flexible work schedule that would
7 allow an employee to tend to caregiving
8 responsibilities. This legislation seeks to meet
9 the needs of individuals who want to keep on
10 working and doing the best job that they can
11 possibly do while trying to take care of someone
12 else. It is something that we should all be able to
13 relate to. Under Intro number 863 employers would
14 be prohibited from discriminating against an
15 employee or a perspective employee on the basis of
16 his or her actual or perceived status as a
17 caregiver and would require employers to make
18 reasonable accommodations to the needs of
19 caregivers. The term caregiver is defined as a
20 person who is a contributor to the ongoing care of
21 a child for whom the person has assumed parental
22 responsibility or of a person or persons in a
23 dependent relationship with the caregiver and who
24 suffer from a disability. I look forward to hearing
25 your testimony on what I believe is a very

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2 important piece of legislation. And with that I'd
3 like to give my colleague Council Member Gale
4 Brewer the opportunity to say a few words. Thank
5 you.

6 COUNCIL MEMBER BREWER: Thank you very
7 much. And my first words are to thank you Madam
8 Chair for being our colleague for four years and
9 also for being such a good chair of this committee
10 and I am deeply appreciative of your giving me the
11 opportunity to hear this bill today. I am Gale
12 Brewer and I am the prime sponsor of 863 known as
13 the Caregiver Discrimination Bill but it could also
14 be called the Family Responsibility, the Family
15 Responsibility Discrimination depending. It's the
16 same concept and it's an issue that impacts all
17 working people. Caregiver responsibilities include
18 as the chair indicated mothers, fathers, pregnant
19 women, adult children caring for aging parents, and
20 workers who must provide care for other sick or
21 disabled relatives. A recent report from The Center
22 for Work Life Law shows the extent of the problem.
23 Let me be specific as to what our country looks
24 like now. 70 percent of married mothers work
25 outside the home. 70 percent of married mothers

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2 work outside the home. And 70 percent of single
3 mothers with children under 10 participate in the
4 labor force. More and more men have an increased
5 role in child baring and the New York Times just
6 did a large story on this on the front page. And I
7 think it actually highlights the need to think more
8 commutatively as we should be about work force and
9 the balance between home and work. Number two age
10 in population increases. Working adults face
11 grueling need to care for elderly parents as we
12 know. Two, 22.4 million US households, that's one
13 in four is providing care to a relative or friend
14 aged 50 or older. And I think anybody who, who's
15 had to do that knows how hard it is to balance that
16 and work. So this bill will prevent employers from
17 firing caregivers, people who are so articulately
18 described by the chair, refusing to hire them as
19 job applicants which is often the first challenge
20 or refuse to offer raises or other promotions to
21 workers on the basis of their responsibilities. I
22 think what happens now is people don't dare tell
23 what's going on at home and they certainly don't
24 mention it when they're applying for a job. The law
25 would also require that employers make reasonable

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2 accommodations to the needs of caregivers in order
3 to allow them to satisfy the essential requirements
4 of a job. And I think obviously in all of this if
5 we all was working in small shops this would be an
6 easy to figure out what is reasonable
7 accommodation. But as we're reading the paper and
8 particularly in New York we now have a lot of large
9 corporations running even some of our smaller
10 shops. And to me that really does entail making
11 sure that this reasonable accommodation is put into
12 law. Although title 7, six seven, sorry, yeah title
13 7 the civil rights act does provide some
14 protections for mothers and fathers with caregiving
15 responsibilities. Discrimination on these grounds
16 is difficult to prove and the law has serious
17 potential loopholes. To ensure that employees in
18 our city have the freedom to take care of their
19 loved ones we need to pass a strong local law
20 guaranteed protection for caregiver[phonetic],
21 caregivers. Although cities have done that, and I'm
22 afraid to mention the word San Francisco because
23 when I did during Paid Sick Leave people were
24 telling me it wasn't a city. San Francisco has
25 passed this law but so has Atlanta, Kansas City,

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2 Boston, St. Paul, and the list is very, very long.
3 So I believe this is a common sense measure to
4 ensure that parents and caregivers are protected
5 from discrimination and are able to provide the
6 necessary support for their loved ones. I look
7 forward to the hear, testimony as the chair
8 indicated and I just want to state that we are all
9 very proud when Mr. President Clinton signed the
10 Family Medical Leave Act. Left a very different
11 problem that's addressed. It is not, it could, it
12 totally could compliment what we're talking about
13 here locally. It doesn't provide a conflict. It is
14 addressing a different issue. And I think as we go
15 into the future thinking about how families need to
16 be balanced with work this is an example of how we
17 can do it making sure that nobody's discriminated
18 against. Thank you very much Madam Chair.

19 CHAIRPERSON ROSE: Thank you Council
20 Member Brewer. And, and I want to just acknowledge
21 and thank you for all of the work that you've done
22 in terms of protecting workers' civil rights. Thank
23 you. I'd like to acknowledge that we've been joined
24 by Council Member Chin and before I call the first
25 panel and I believe only panel I'd like to say that

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2 the Commission on Human Rights have submitted
3 testimony that will be submitted into the record.
4 And with that I'd like to ask Katherine Greenberg
5 from the Legal Aid Society, Phoebe Taubman from A
6 Better Balance and Dena Adams to come forward.
7 Please state your name for the record before you
8 testify.

9 [pause]

10 CHAIRPERSON ROSE: You have to speak
11 into the microphone. Nope. Not yet. Is it on?

12 DEENA ADAMS: Now it's on.

13 CHAIRPERSON ROSE: Now it's on.

14 DEENA ADAMS: Good afternoon. I'm Deena
15 Adams.

16 PHOEBE TAUBMAN: Good afternoon I'm
17 Phoebe Taubman.

18 KATHERINE GREENBERG: I'm Katherine
19 Greenberg of the Legal Aid Society.

20 CHAIRPERSON ROSE: Thank you so much.
21 Ms. Greenberg would you like to start?

22 KATHERINE GREENBERG: Thank you. So I
23 work as a staff attorney in the employment law unit
24 of the Legal Aid Society and my practice focuses on
25 employment issues affecting pregnant women,

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2 caregivers, and workers with disabilities. So I'm
3 here today to speak in favor of the proposed
4 amendment to the administrative code of the City of
5 New York which would prohibit employment
6 discrimination based on an individual's actual or
7 perceived status as a caregiver. The Legal Aid
8 Society is the oldest and largest not-for-profit
9 public interest law firm in the United States
10 working on more than 300 thousand individual legal
11 matters annually for low income New Yorkers with
12 civil, criminal, and juvenile rights problems. In
13 addition to law reform representation the benefits
14 all 2 million low income children and adults in New
15 York City. The society delivers a full range of
16 comprehensive legal services to low income families
17 and individuals in the city. Our civil practice has
18 local neighborhood offices in all five boroughs
19 along with centralized citywide law reform,
20 employment law, immigration, health law, and
21 homeless rights practices. The employment law unit
22 provides representation, community education, and
23 advice to low wage workers regarding employment
24 issues including unemployment insurance benefits,
25 unpaid wages, overtime, and other wage and hour

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2 violations, and employment discrimination and
3 retaliation. The legal aid society often hears from
4 workers who have been fired because they needed to
5 take a few days off work to care for a loved one.
6 In the past two years I've represented two single
7 mothers who were fired from their jobs because they
8 took time off work to care for sick children. One
9 woman was fired while home caring for her asthmatic
10 seven year olds. The other was discharged after
11 taking a few days off to tend to her young child
12 who was hospitalized with chronic ear infections.
13 Both of these women were lucky. Their employers
14 were large enough to qualify them for coverage
15 under the Federal Family and Medical Leave Act. And
16 so we were able to pursue claims on their behalf
17 under that statute. But had they been among the 40
18 percent of workers who were not covered by the FMLA
19 or had their caregiving needs not fallen within the
20 ambit of what the FMLA protects they would have had
21 no legal basis to challenge their terminations. It
22 is unconscionable for us as a society to allow
23 hardworking employees and caregivers to be fired
24 simply because they are providing care to a sick or
25 injured family member. The Legal Aid Society is

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2 also frequently contacted by low wage workers who
3 were forced out of their jobs when their employers
4 deny them minor scheduling adjustments they need to
5 accommodate their caregiving responsibilities. For
6 example we recently heard from a woman named Diane,
7 a retail worker who was fired after repeatedly
8 requesting a transfer from the evening shift to the
9 morning shift so that she and her partner could
10 coordinate care for their infant son. Although
11 there were openings on the morning shift her
12 employer gave those positions to workers without
13 caregiving responsibilities and then fired Diane
14 because of her inflexible schedule and repeated
15 requests for a shift change. Workers with
16 caregiving responsibility come in all forms;
17 mothers, spouses, children, and grandchildren.
18 Caregiving work is challenging in many ways and
19 stable employment is vital to ensuring that
20 caregivers are able to provide for our society's
21 children, elderly, and disabled. The city should
22 protect the caregivers among us by ensuring that
23 they cannot be fired simply because their
24 caregiving responsibilities are, excuse me, simply
25 because they have caregiving responsibilities or

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2 are denied minor accommodations that would enable
3 them to care for their loved ones. Accordingly the
4 Legal Aid Society is in favor of the proposed
5 amendment to the city administrative code. We would
6 also like to encourage the City Council to pursue
7 creating affordable childcare options. Many of our
8 clients would be able to report to work if they had
9 a safe and affordable childcare option. The
10 expansion of public preschool to include four year
11 olds is important but alone it will not address the
12 full scope of the problem. New Yorkers, especially
13 low income workers need safe and affordable
14 childcare options for their children from the time
15 they are newborns until age 13. Thank you.

16 PHOEBE TAUBMAN: Good afternoon. Thank
17 you Council Member Rose and thank you. Sure. Is
18 this better? Thank you and thank you Council Member
19 Brewer for introducing this legislation and thank
20 you all for listening and to our testimony today. I
21 am a senior staff attorney at A Better Balance, the
22 Work and Family Legal Center. We are a legal
23 advocacy nonprofit based here in New York City and
24 we are dedicated to promoting fairness in the
25 workplace and helping workers to care for their

1 families without risking their economic security.
2 At a better balance in addition to a variety of
3 work on policy issues we also host a free legal
4 clinic and hotline. And we hear from workers across
5 the economic spectrum who are struggling to keep
6 their jobs while also meeting their family
7 caregiving responsibilities, hundreds of people
8 we've spoken to over the last few years. Now the
9 workforce has changed dramatically in recent
10 decades as Council Member Brewer discussed. Women
11 now make up nearly half of the workforce and nearly
12 four in 10 mothers are the primary bread winners
13 for their families. 70 percent of children today
14 are growing up in households with a single working
15 parent or where both parents work outside of the
16 home. So there just simply isn't anyone at home all
17 day every workday to take care of all of the
18 domestic needs and responsibilities in the family
19 anymore. About half of the US workforce as well
20 expects to be providing elder care in the next five
21 years which makes sense if we think about the baby
22 boomer generation aging and the demographics. Just
23 this week research out from the PEW research
24 institute shows that millennial women who are just
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2 beginning in the workforce are three times more
3 likely than their male counterparts to say that
4 being a working parent makes it harder to advance
5 in a job or career. So although this issue it does
6 affect men and women and people across the spectrum
7 women I feel are sort of the canaries in the coal
8 mine because this issue caregiving has largely been
9 shouldered by women in families traditionally. So
10 as a result all too often workers are forced to
11 choose between their families and their jobs. More
12 than 90 percent of Americans, parents report having
13 work/family conflict. And this is especially true
14 for low wage workers who rely on every single
15 paycheck to make ends meet. Without clear legal
16 protections family caregivers struggle to seek
17 justice when they're forced out of the workforce.
18 We heard from a professional woman with 10 years of
19 experience and excellent reviews at her job who was
20 fired after returning from her second maternity
21 leave and told she was not capable of doing the
22 work anymore because she was a mother with multiple
23 small children. And it is often the case that women
24 who manage to continue working without a problem
25 after one child once they add a second is, that's

1 the trigger point for a lot of this discrimination.

2 We heard from a retail worker who was fired a day
3 after he asked for a part time schedule to help
4 care for his mother who had recently been diagnosed
5 with cancer. He was also trying to help to take
6 care of his younger brother who was still in school
7 when his mother was incapacitated by her disease.

8 And we heard this, just this past spring from a
9 mother of three who lost her job at a grocery store
10 where she'd worked for 11 years. After her boss
11 changed her shift to require work on Saturdays even
12 though he routinely made shift changes for
13 other workers she had not childcare on the weekend
14 and the cost of securing it for her three children
15 would have wiped out her wages for the day. Eight
16 months later she is still looking for work.

17 Prohibiting employment discrimination based on a
18 worker's status as a family caregiver would ensure
19 that parents and other family members are not
20 unfairly penalized because of their
21 responsibilities outside of work. Clear legal
22 guidance would also help employers who are confused
23 about what kind of conduct is prohibited. And as
24 council member brewer mentioned there are some laws
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2 that do cover certain circumstances of caregiver
3 discrimination if for example a worker can prove
4 that it's sex based discrimination. But the
5 overlapping Venn diagram of civil rights laws and
6 what is covered and what is not is quite
7 complicated for employers and employees. So legal
8 clarity would be very helpful in that regard.
9 Reasonable accommodations would grant caregivers
10 the same good faith interactive process that
11 disabled workers enjoy. An opportunity to request
12 alternative work arrangements to help them meet the
13 requirements of the job while also tending to their
14 family. As we know from the experience of
15 reasonable accommodations and those other contexts
16 of disability and religious observance when workers
17 and employers sit down together they have the
18 opportunity to come up with solutions that meet
19 everyone's needs. This bill has the potential to
20 significantly improve the health, wellbeing, and
21 financial security of low wage workers, children,
22 and the elderly. And we support this bill. Thank
23 you very much.

24 CHAIRPERSON ROSE: Thank you. Ms. Adams.
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DENA ADAMS: Good afternoon everyone

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3 Dena Adams. I'm a single mother and I had lost my
4 job because of child caregiver discrimination. I
5 had worked over 15 years at a nonprofit agency that
6 provides care for homeless youth. For most of the
7 time I worked in the record department where my job
8 offers steady and predictable schedules which was
9 nine to five Monday through Friday holidays and
10 evenings off. In 2011 I received a service award
11 and a gift, here's my gift right here from them,
12 for being a loyalty to the organization but one
13 week later my employee eliminated my department
14 for, for budget reasons and offered me a different
15 position that required me to work various evenings,
16 weekends, and work hours. I did not have childcare
17 for my 11 year old daughter in the evenings and I
18 did not feel comfortable leaving her home alone
19 until midnight. We live in a risky neighborhood and
20 I don't have any other family in New York, all my
21 family's in North Carolina who can pitch in. My
22 employer gave me one week, one week to consider to
23 either stay employed or leave with unemployment
24 benefits. I don't want to lose my job. I've been
25 there 15 years. I loved my job. I tried to

1 negotiate asked him if I work weekends and holidays
2 instead of the evening schedules up until 12:00.
3 They said no. My daughter's safety is, is, is the
4 main issue with her, my issue was my daughter, her
5 safety was the main concern okay. If they would
6 allow me to work those hours then I could have, she
7 could have stayed at friend's house during those
8 times. The supervisor still said no. I asked if I
9 can arrange for the evening hours to be the same
10 every week so I could predict and plan for my
11 daughter. The boss just said no. I even suggested
12 to if I could bring her to work with me on the
13 nights that I had to work. They still said no. They
14 denied each and every request flat out. They
15 wouldn't, they would not even discuss any
16 alternative with me. Meanwhile I found out that
17 they were allowing coworkers of mine to have a
18 rotating schedule put back because they went to
19 school. So they was allowed to have a rotating
20 shift, a rotating schedule just for the education
21 and I could not get that for my child. Which I
22 didn't think that was very unfair. A few months
23 after earning my service award I was terminated. My
24 terminated, my termination papers stated that I was
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2 fired for a lack of childcare. I started claiming
3 unemployment benefits and looking for a job. It
4 took me over a year to find employment which I just
5 started last year. My employer forced me into
6 impossible choice between my job and my child. I
7 don't live in the best neighborhoods and we don't
8 have the same dynamic as other households. It's
9 just me and my daughter. All I'm asking of my
10 employee was to work with me. I can do both jobs. I
11 can be an excellent parent and an excellent
12 employee if given the opportunity. I did it for 15
13 years and I could have continued to do it if they
14 just allowed me to be there work in the mornings
15 and be there for my daughter at night, just to work
16 with me not against me. I don't think that any
17 parent should be, should have to make that kind of
18 choice. It's like asking me if I should breathe or
19 if I should die. I am here today because this bill
20 will help parents like me. It will ensure mothers
21 are not discriminated against in the work, in the
22 workplace. It will also make sure that our
23 employers engage, engage with us to find productive
24 solutions when work conflicts with caregiving
25 responsibilities instead of just tossing us aside.

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2 If this law had been in effect two years ago I
3 wouldn't be here I'd still be employed where, where
4 they terminated me from. The employer you know lost
5 money by training other people and replacing, and
6 replacing me. They had to replace me. The loyalty
7 that I had shown the employer over 15 years would
8 have become even stronger. Instead I was out of
9 work for months and had to rely on public
10 assistance to support my family. I am not an
11 economist but this just seems like bad policy.
12 Again I am thanking you guys for considering this
13 bill. At least you guys is considering the bill
14 unlike my employer didn't consider me at all when
15 it came to terminating me by my daughter. That's
16 it.

17 CHAIRPERSON ROSE: Thank you so much for
18 your testimony. I'd like to say you know I, I am so
19 sorry that you had to experience that and hopefully
20 with the passage of this bill no other parent will
21 have to make a... [interpose]

22 DENA ADAMS: That's a horrible...
23 [interpose]

24 CHAIRPERSON ROSE: ...decision.

25 DENA ADAMS: ...feeling.

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2 CHAIRPERSON ROSE: Should not have to
3 make a choice.

4 DENA ADAMS: Horrible feeling.

5 CHAIRPERSON ROSE: Right. I thank you
6 all for your, your testimony. And I'd like to speak
7 to Legal Aid and Better Balance. Is there any data
8 available in regard to the number of cases that
9 have been put forward claiming discrimination based
10 on caregiver status?

11 PHOEBE TAUBMAN: Is that in...

12 CHAIRPERSON ROSE: And if so where could
13 we find that?

14 PHOEBE TAUBMAN: I know that when this
15 bill was introduced before in 2007 that the Human
16 Rights Commission did have some records of...
17 Because, but it's hard for them to keep records of
18 these because these claims aren't necessarily
19 covered under the laws they enforce. So often times
20 the callers who call with these issues you know
21 once they've determined that the commission, that
22 they can't help them you know there, there's no
23 record kept of what the issue was that they raised.
24 I mean we as I mentioned have a hotline where we
25 hear a number of calls but I wouldn't say that our

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2 hotline numbers are authoritative as to how often
3 this is happening in the city. I do know for
4 example, Council Member Brewer mentioned the Center
5 for Work Life Law also has a hotline, a national
6 hotline where they receive these calls. So I don't
7 know if there's an authoritative database for how
8 many of these claims there are.

9 KATHERINE GREENBERG: I, I would say the
10 same. The only other thing I would think of is that
11 for those jurisdictions that do have explicit
12 protections for caregivers in the workplace. They
13 might be able to provide a better sense of what
14 proportion of complaints those agencies receive or
15 complaints that are filed in court come under that
16 particular protection. Because as Council Member
17 Brewer had said there, there's such a patch work of
18 laws right now that it's very hard to tell how many
19 people are experiencing these issues in the
20 workplace but aren't able to thread the needle of
21 how to, to try and file a claim or make a
22 complaint.

23 CHAIRPERSON ROSE: The Family Medical
24 Leave Act has you know several provisions to cover
25 one's own or specified family member's serious

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2 health condition but you know there are a serious
3 limitations. You know it only covers actions by
4 employer during protected leave which is up to 12
5 month, weeks. It could be applied if an employee
6 worked long enough or if the employer was large
7 enough to be covered by family medical leave. Do
8 you think that this new legislation will encounter
9 similar limitations and how do we guarantee that
10 the employer won't be able to deny reasonable
11 accommodations using the limitations of the Family
12 Medical, Family Medical Leave Act?

13 PHOEBE TAUBMAN: So I, I certainly agree
14 with limitations of the Family Medical Leave Act
15 and I would add that there are additional
16 requirements on the employees so an employee has to
17 be employed for at least a year. They have to have
18 had a certain number of hours of service which was
19 generally more than a part time schedule in order
20 to qualify. There are many people who run into
21 these kinds of conflicts where their, with their
22 employer before they're able to meet those
23 qualifications even if the employer's large enough.
24 So I hear regularly from people who may have had a
25 claim under the FMLA if only they had been eligible

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2 for FMLA leave at the time that the issue arose.
3 But I think that there are a lot of things worked
4 into this proposed legislation that would help to
5 address those deficits. So, so many more employees
6 would be covered immediately upon starting their
7 job even at the point of application. There
8 wouldn't be that same waiting period and smaller
9 employers would also have to focus on the
10 caregiving needs of their employees when they're
11 asked. I think too that the reasonable
12 accommodation provision is broader than just the
13 leave time, block leave time, or intermittent leave
14 time allowed by the FMLA. So things like the
15 schedule change that Ms. Adams needed in many ways
16 I think would be less onerous for an employer than
17 giving an employee up to 12 weeks of time off work.
18 But could make an even bigger difference for some
19 workers who need time for caregiving but just want
20 a schedule adjustment in order to have that time.

21 CHAIRPERSON ROSE: And does this
22 legislation cover part time or only full time
23 employees?

24 PHOEBE TAUBMAN: I believe it would
25 cover both types of employees. I mean it's, it's a,

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2 an amendment to the definitions to the
3 antidiscrimination and employment and so it would
4 cover all of the same categories of workers already
5 covered for race, sex, and other forms of
6 discrimination. I think you know part time is one
7 of the, you know schedules that might be
8 alternative or might be worked out under the, under
9 this law.

10 CHAIRPERSON ROSE: Is there, is there
11 any limitation that might be put in place to the
12 number of reasonable accommodation requests that
13 you know an employer, employee, an employer would
14 be forced to sort of allow?

15 PHOEBE TAUBMAN: I believe in, and I
16 mean the definition of caregiver limits it to
17 individuals in the parental relationship you know
18 with a child as well as those who are in a
19 dependent relationship with someone with a
20 disability. So those definitions do limit it in
21 some ways. But there's certainly opportunities for
22 figuring out ways to tailor the accommodation
23 provision so that it isn't you know a, sort of an,
24 an undue hardship on the employer and in fact
25 that's the standard that, that this would be

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2 working with and one that's familiar from the
3 context of disability that if it is an undue
4 hardship on business it doesn't have to be granted.

5 [crosstalk]

6 CHAIRPERSON ROSE: Oh I'm sorry.

7 KATHERINE GREENBERG: I, I would just
8 strongly second that, that I think one of the real
9 benefits of this proposed legislation is that it's
10 working with the reasonable accommodation standard
11 that employers are already familiar with. So it
12 would impact the same employers who are already
13 required to grant reasonable accommodations under
14 the City Human Rights law now so this is the
15 standard they work with, they know how to use.
16 They're familiar with identifying you know the
17 essential functions of an individual's job and
18 engaging in an interactive process to find ways
19 that a particular employee can fulfill those
20 functions while also accommodating their other
21 individual needs.

22 CHAIRPERSON ROSE: Thank you. Council
23 Member Brewer.

24 COUNCIL MEMBER BREWER: Thank you very
25 much for your excellent testimony and having a

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2 personal experience adds a lot. So it's horrible
3 but I thank you for coming. I have a couple of
4 questions. You know the mayor's office as the chair
5 indicated submitted testimony didn't show up but
6 doesn't like the bill. No surprise. So what they
7 claim is that I think you've answered it a little
8 bit is that between the ADA, Americans for
9 Disability, and the Human Rights Commission this is
10 already covered. We don't need to worry about it.
11 So you've talked a little bit about FMLA to size.
12 It's, it, to me FMLA is completely different
13 situation and many, we have, I don't know 98
14 percent of our businesses are 100 people or less. I
15 don't know how many are 50 people or less but a lot
16 of them. So I guess I'd like you to just try to
17 answer. Because it is a little bit of a hodgepodge
18 in terms of human rights laws. But why this would
19 not be covered, caregivers would not be covered
20 under Human Rights Commission? To me it seems
21 obvious but if you could add that and also ADA.
22 Those, I mean, can you just address those two
23 issues because that's what they're claiming.

24 KATHERINE GREENBERG: Yep sure. I, I can
25 take a first crack.

[crosstalk, laughter]

3 KATHERINE GREENBERG: So the protections
4 that exist are absolutely insufficient to protect
5 people who are being targeted because of their
6 caregiver status. So, for example the, one of the
7 clients who I referred to who I represented who was
8 fired after taking a few days off work because her
9 child was hospitalized with chronic ear infections.
10 Had her employer had 49 employees she would have
11 had no FMLA base claim to assert. In that case we
12 also try to bring a title seven sex discrimination
13 claim through the lens of caregiver. We were only
14 able to do that because we were able to find a male
15 comparator in her workplace who had been offered an
16 employment benefit that she wasn't given access to.
17 Had that fact not been there that whole cause of
18 action just would have disappeared. I also have a
19 case right now where we've brought a claim of
20 associational disability under the city human
21 rights on, that's also a claim that's available
22 under the ADA. But in that case, that really
23 doesn't cover everybody who would be protected by
24 this new law because there's no reasonable
25 accommodation requirement. So a person who is in a

1
2 dependent relationship with somebody who has a
3 disability their employer can't refuse to hire them
4 or fire them simply because of their relationship
5 with that person. But as soon as the employee needs
6 to take one day off or leave an hour early or take
7 a phone call in the middle of the work day in order
8 to support the care of that relative or other
9 dependent person they can be fired for that with no
10 protection. And it, it's those kinds of cases where
11 something, a person needed an hour off, or a very
12 minor accommodation is really where we hear from
13 most people. And because associational disability
14 under any of the existing laws doesn't cover that
15 situation I just don't have anything to, to provide
16 to help these people.

17 PHOEBE TAUBMAN: Yes I think Katherine
18 actually hit most of the points I would say and in,
19 and I'd think that New York City's Human Rights Law
20 is, it's strong in that regard that it does have an
21 associational provision under disability which,
22 which the ADA has, which would say, which says that
23 workers who fight discrimination because of their
24 association with a disabled person have a cause of
25 action. But as Katherine said it's limited to you

1
2 know if there's some sort of a stereotype there
3 that this person will be less focused on the job
4 because their child has special needs or this
5 person will cost us more in health insurance
6 because her husband has a chronic disease.
7 Something like that would potentially be covered.
8 But the issue that we're talking about with regard
9 to time just isn't covered by that existing law.

10 COUNCIL MEMBER BREWER: And it also
11 seems to me since other cities and the list is
12 really long are, have already passed similar
13 legislation. This is not a business killer which of
14 course I always get accused of.

15 [laughter]

16 COUNCIL MEMBER BREWER: So my question
17 would be; in New York or anywhere what would be a
18 reasonable accommodation? I think in some cases
19 obviously it's just making two phone calls to the
20 doctor. It could be taking your child to the
21 hospital or to the doctor. I mean is there, is
22 there some definition of reasonable accommodation
23 or is it, how does one, how do we answer that
24 question? What is reasonable accommodation? I ask
25

1
2 because maybe I have some sense of the answer but
3 I'd like to hear it from you.

4 PHOEBE TAUBMAN: Well under the
5 disability context and the way the law is currently
6 interpreted there are several factors to determine
7 whether or not an accommodation is reasonable based
8 on the size of the employer, the nature of their
9 business, and other considerations. So those are
10 the pieces that go into the puzzle to determine
11 whether or not something is reasonable. Under New
12 York City law it is the burden on the employer to
13 determine, to show that it's an undue hardship
14 whatever is requested. And I think it is important
15 to consider you know when we're talking about this
16 structure you know to your point Council Member
17 Rose you know what is to stop sort of everybody for
18 asking for every possible accommodation. I mean
19 we're at the other extreme right now where there's
20 no option. You know certainly that's a concern that
21 it could become everybody and everything but I
22 think there's a happy medium that we can work
23 towards with this legislation. To tailor it so that
24 you know people who really just need a small change
25 in their schedule or the ability to make phone

1
2 calls during the day can do that without fear of
3 retaliation and without fear of losing their job.

4 COUNCIL MEMBER BREWER: You want to add?

5 KATHERINE GREENBERG: Yes, I, I would
6 certainly agree with all of that. And I think that
7 one of the benefits of the reasonable accommodation
8 standard is actually that it is more difficult to
9 define because it's so dependent upon the
10 employers, the essential functions they lay out for
11 that particular person's job and the needs of the
12 employer as well. So it anticipates that there's
13 going to be a conversation between the employer and
14 the employee about what are the needs on both sides
15 and how can the two sides come together to see if
16 there's a way to have those needs met on both ends.
17 I think it's precisely that kind of dialogue that
18 can lead to also the greater understanding and
19 acceptance of difference and of us as complete
20 human beings in the workplace that I think was
21 anticipated in many ways by the City Human Rights
22 Law.

23 COUNCIL MEMBER BREWER: Yeah I mean I
24 think all of these laws that we hope to keep
25 passing are ones that improve the workplace, and

1 families, and our city but boy is that hard concept
2 to get across. I also want to note, because I
3 always find and I just want to know from your
4 perspective this often and HR person because I'm
5 always told nobody's going to understand this. It's
6 too complicated. You can't keep track. Blah, blah,
7 blah. So my question would be from your experience
8 in doing this kind of legal work you obviously talk
9 to the attorneys and the employers but do you also
10 find that there are HR people out there who know
11 what FMLA is, who know what ADA is? In other words
12 you find I assume maybe they're not doing it
13 legally but do you find people who are experts in
14 this field who, who in some cases do know what the
15 law is and apply it correctly? So there are people
16 out there who can advise and work and are employed
17 by these businesses to be able to make sure that
18 the laws are, are abided by. Is that, I mean I'm
19 just asking a more general question. But I do get
20 asked that all the time.

22 PHOEBE TAUBMAN: Certainly. It depends
23 on the business and it's often the larger, more
24 established businesses that do have that
25 [crosstalk] resource of somebody in HR. But, yeah I

1 think that because this is a familiar standard that
2 helps. I think that also you know the, the
3 conversation is the important piece and is not, you
4 know the, the I think what you're alluding to
5 perhaps is in the context of paid sick days for
6 example where there are, there are a lot of
7 different moving pieces, and there's complaints of
8 implementation. I mean this is something employers
9 as Katherine said are already familiar with to the
10 extent they're not. That's because they haven't
11 been paying attention for a long time because it
12 has been in the law for disability for a long time.
13 And so I think that's an advantage to using this
14 potential avenue to get to the conversation
15 Katherine is describing. You know tailoring it as
16 they say to make sure that it works effectively and
17 that employers aren't overwhelmed such that they
18 will actually resent you know the same, very same
19 workers we're trying to protect from
20 discrimination. But I do think it's, you know when
21 it comes to workplace laws this is a fairly
22 understandable and not too complicated process.

24 KATHERINE GREENBERG: I, I very much
25 agree. I, you know I think unfortunately both

1
2 Phoebe and I tend to hear from employees whose
3 employers don't... [interpose]

4 COUNCIL MEMBER BREWER: Correct.

5 KATHERINE GREENBERG: ...understand the
6 laws as they exist or aren't, aren't applying them
7 correctly. But that said although I have dealt with
8 some employers who have had a lot of difficulty
9 wrapping their heads around the requirements of the
10 FMLA which is a very regulatory, intensive, and
11 very technically tricky law. I have yet to come
12 across an employer who wasn't familiar with the
13 concept of reasonable accommodation and to the
14 extent that there is a dispute it's usually over
15 to, to what extent is the accommodation being
16 requested reasonable or even what is the substance
17 of the request that was made or why was there not
18 more of a conversation about this before the
19 implement relationship was ruptured. So I, I have
20 never had somebody ask me what do you mean a
21 reasonable accommodation, what do you mean an undue
22 hardship. It seems that HR departments and
23 employers are very familiar with what that means by
24 now.
25

1
2 COUNCIL MEMBER BREWER: Thank you Madam
3 Chair and they are three fabulous witnesses.

4 CHAIRPERSON ROSE: Yes they are. Thank
5 you so much and before I go to Council Member King
6 along the Council Member Brewer's questioning do
7 your organizations have a program or campaigns that
8 are designed to educate the community about their
9 rights under, under the law and ways to identify
10 discrimination? And would it, or, and does it
11 include caregiver discrimination? And where, where
12 would you recommend that victims of caregiver
13 discrimination go?

14 PHOEBE TAUBMAN: Yes we at A Better
15 Balance do, do trainings where we try to
16 communicate these concepts you know in a non-legal
17 way, not overly jargony way to workers and their
18 advocates including you know social workers, social
19 service providers, etcetera. And admittedly with
20 the current sort of patchwork of laws it is a
21 complicated presentation to, to get across because
22 it's full of exceptions and ifs and if-not's and
23 things like that. But we do, do it and we encourage
24 people to call our hotline. We encourage people to
25 reach out to our you know partner organizations

1
2 including legal aid and others in the city who have
3 some experience with this. But it is, it's sort of
4 a growing problem and also therefore growing area
5 of expertise. So there are some indeed a fair
6 number of lawyers in the city who are now familiar
7 with it but not as many as on other topics that are
8 much more well-versed in and more familiar to the
9 legal community. So we do, do those trainings and
10 we, we encourage people to call us and reach out to
11 us about them.

12 KATHERINE GREENBERG: I'll just say that
13 we, we do much of the same training although less
14 and we have a hotline and, and I found there's a
15 real thirst for understanding about this area of
16 law among other attorneys and advocates as well.

17 CHAIRPERSON ROSE: I'd just like to say
18 thank you to Council Member Brewer for... [background
19 comments, laughter] Thank you so much. I, I just
20 want to question about the advocates. We've heard
21 from the advocates that there's a great deal of
22 concern about the use of the law using disability
23 rather than serious health condition you know when
24 defining the caregivers requests. So can you touch
25 on the, the difference between disability and

1
2 serious health condition. And which do you think,
3 or should both be included in this legislation.

4 KATHERINE GREENBERG: I, I would
5 certainly be more in favor of using the language of
6 disability. The definition of disability under the
7 City Human Rights Law as it is now is, is a
8 definition that's existed in law for a while and so
9 I think it's one that employers are familiar with.
10 It's also one that encompasses a broad range of
11 ailments that effect individuals, both workers and
12 their families and relatives. And I think that it
13 provides a very comprehensive way for individuals
14 to show that they're experiencing some sort of
15 bodily, psychological, physical ailment that
16 requires care support of others. My understanding
17 of the definition of a serious health condition is,
18 is that I think it comes from the FMLA and the
19 definition under the FMLA is, is much more complex
20 than the definition of disability under the City
21 Human Rights Law. There are different ways for an
22 ailment to qualify as a serious health condition
23 under the FMLA. If it's something that requires
24 hospitalization with a period of ongoing care it
25 can qualify, if it's a chronic illness such as

1
2 asthma it can qualify. But I, I think it's actually
3 a more difficult definition to work with a and it's
4 also a more restricted definition so I would
5 certainly advocate for the use of the term
6 disability.

7 CHAIRPERSON ROSE: Well the advocates
8 thought that disability is, is broad enough to
9 cover something like my child has an ear ache or
10 chronic ear aches and needs, you know I need to
11 stay home and take care of them. Would that be
12 covered under the definition of disability.

13 KATHERINE GREENBERG: I think that it
14 could potentially but I think that it's important
15 also to add into that conversation that the fact
16 that the condition qualifies as a disability
17 doesn't remove the undue hardship defense that's
18 available to the employer. So regardless of the
19 severity of the illness that the child or partner
20 or parent is experiencing if we're talking about a
21 very small employer and there aren't other
22 employees who know how to do this particular
23 individual's job and they need to be absent for
24 many, many days over a short period of time. That
25 could easily be a defense on the undue hardship

1
2 side for the employer to say I'm sorry that your
3 child is going through this but I simply can't have
4 you be out for so many days. It's too much of a
5 burden on my business. I'm going to have to hire
6 somebody else. And so I think that restricting the
7 definition of disability is, is, is not the, the
8 best place to focus in terms of thinking
9 holistically about encouraging this conversation
10 between employer and employee. You know fighting
11 over whether somebody is disabled really isn't in
12 the spirit of what these protections are about. I
13 think the focus should be more on can the employer
14 provide this accommodation regardless of whether
15 the child ear aches require you know hospital
16 visits or hospitalization or surgery or you know
17 rather than focusing on how serious is the earache.

18 CHAIRPERSON ROSE: So you, you do
19 believe though that you could argue a good, you
20 could win an argument because the definition of
21 disability is broad enough or because of other
22 parts of, of the law?

23 KATHERINE GREENBERG: I, I think that
24 the definition of disability would, would likely be
25 broad enough for me to at least make an argument

1
2 that if a child's chronic ear infections are
3 serious enough to require the parent to stay home
4 on multiple occasions. That would be serious enough
5 to qualify as a disability under the City Human
6 Rights Law yes.

7 CHAIRPERSON ROSE: Okay. Council Member
8 King.

9 COUNCIL MEMBER KING: Thank you Madam
10 Chair and I want to thank Council Member Brewer
11 even though she had to go to Paid Sick Leave but
12 for this piece of legislation I want to thank the
13 three of you for your testimony today. I appreciate
14 what I heard. I am also a little bothered that
15 today again that we still have to have these
16 conversations, that, that just alleviates us from
17 being human to one another. You know we need to
18 stop with all the smoke and mirrors and you know
19 and the words that we use that confuse everybody.
20 And you know we try to come up with a legislation
21 to protect people but there's a human component
22 that's always seems to be negated when it comes to
23 employers, employees, and just society itself which
24 brings us to these hearings. So I'm, I'm not
25 thrilled that you had to go through what you went

1 through because it comes in amount of fairness
2 especially when you dedicate yourself to make that
3 employer's company or the services that were
4 provided a prosper one that he didn't have the
5 common courtesy to give you more time but figure
6 out how to keep a great employee like yourself. So,
7 but kudos to you for staying strong. I want to ask
8 legal aid, I want to ask you all a question because
9 the administration did submit a testimony that
10 they're not in favor of this, of this piece of
11 legislation. But again you know it's up to whether
12 it's discrimination or it's disabilities, or it's a
13 caregiver. I have learnt that sometimes you need to
14 just be specific as opposed to legal stuff to
15 interpretations. And I think this piece of
16 legislation, you know just be direct. We're talking
17 about the caregiver, what the caregiver goes
18 through, and who has children, and who's trying to
19 provide for their children. And I'd like to know
20 the people who are saying no, do they have
21 caregiver problems? You know? If, if they're not
22 experiencing it, they're not, they're not, like
23 they can't identify with the person who's, who is
24 experiencing. And that's a big flaw in us being
25

1
2 humans. But I want to know the employers who have,
3 who have discriminated against caregivers, has
4 there been any action to identify the name of these
5 employers who have discriminated against their own
6 caregivers in their companies? Has there been a
7 plan to? Any lawsuits? Because you know unless you
8 do something different to change their behavior
9 they'll continue to keep doing the same things. So
10 if there are number that you've been able to
11 attract, track, I mean track I would like to know
12 that. And if there's any action that we can do to
13 expose them so they can do right by their
14 employees. In addition have you been able to track
15 the number of workers who have experienced this? So
16 you know we have a story, we have a testimony here.
17 It, do we have a list of a thousand people who've
18 gone through this in the City of New York or 500?
19 If not is there an outreach to pull them all
20 together to bring more awareness that this is
21 happening also? So I'll stop right there and let
22 you answer me.

23 KATHERINE GREENBERG: So at legal aid we
24 certainly track in a number of areas employers
25 where we see chronic problems. Because caregiver

1
2 discrimination is, because they, the laws are so
3 disparate right now it's an area that's actually
4 hard for us to track.

5 COUNCIL MEMBER KING: Okay.

6 KATHERINE GREENBERG: Because it, it
7 splits people up when some people may have claims
8 under law A and some people may have claims under
9 law B but what's happening to all of them is the
10 same. So tracking employers who are participating
11 in these kinds of activities is difficult because
12 sometimes those activities break the law and
13 sometimes they don't. So it's not an area where we
14 focused on identifying employers. If we had a legal
15 protection like this in place it would make it a
16 lot easier for us to identify a list of people who
17 are breaking one single law in the same particular
18 way. And in terms of bringing together people who
19 have experienced this type of discrimination I
20 think that probably A Better Balance is in a better
21 place to say given the breadth of the policy work
22 that they do.

23 PHOEBE TAUBMAN: Yes. We have as I
24 mentioned this hotline and we also do advocacy work
25 where we run into individuals who've experienced

1
2 these kinds of problems and that's how we met Dena
3 and, and brought her here today. And thank goodness
4 that she is to be able to tell her story. There are
5 others whose story I shared you know who are not
6 willing to come in person or they're in negotiation
7 with their employers with legal representation so
8 they can't identify exactly you know the details of
9 their story. You know and, and I would say over the
10 course of the last you know four years or so that
11 we've had this hotline there's a, we, we gear it
12 towards people with problems at work related to
13 family responsibilities so we hear a lot of these
14 cases. But, but they're not all the same and as
15 Katherine said some of them there are some legal
16 avenues. Some, you know some are purely questions
17 about and issues regarding the FMLA. Sometimes it's
18 breastfeeding in the workplace. Sometimes it's the
19 schedule shift kind of issues. So it sort of takes
20 a lot of forms right now. And we do have some
21 numbers based on you know what we hear but as we
22 continue to do more trainings and outreach and as
23 we continue to reach further audiences also
24 potentially with the help of laws that are more
25 targeted towards those audiences I think we'll be

1
2 able to gather even more personal accounts of the
3 kind you mentioned.

4 COUNCIL MEMBER KING: Okay I look
5 forward to in the future reading that. I want to
6 stay connected with what you're doing on that. And
7 you know when there's an injustice as Dr. King said
8 injustice to one is injustice to all. So we want to
9 make sure that people are aware and they can pay
10 attention because even though they ignore it today
11 tomorrow it could be them or it could be a cousin
12 or it could be a sister or brother that is going
13 through that same experience. So we want to make
14 sure that people are sensitive. Because again it's
15 about, the bigger picture's about making sure the
16 future's better. Because if you can't take care of
17 that little child if they're three or four they
18 might not make it to be seven or eight. Or they
19 might, you might miss the boat and by the time they
20 get 14 something should have been taken care of a
21 long time ago manufactures into something larger.
22 And one final question do you fine... Oh I'm sorry.

23 DENA ADAMS: I just wanted to say one
24 thing.

25 COUNCIL MEMBER KING: Please.

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2 DENA ADAMS: There are a lot of parents
3 out there that have lost their jobs because of
4 childcare but they didn't have no place to go so
5 they just rolled over. Me, I wanted to fight. So I,
6 I called everybody that I could find and A Better
7 Balance is why I'm here today. So I am reaching out
8 to other parents that's going through similar
9 things like this so we can try to get this bill
10 passed because it's not fair. It's not fair. They
11 just don't know where to do. It just so happens I
12 had a fire in my belly that made me want to fight
13 so that's why I'm here to talk now. Other parents
14 didn't have it or they just okay I'll go get
15 another job. But no I do have another job but I'm
16 still here because I want to fight for other people
17 will wind up here, lose their job.

18 COUNCIL MEMBER KING: Please, please
19 keep the, please keep the fight you. Be our
20 spokesperson.

21 DENA ADAMS: Okay.

22 [laughter]

23 PHOEBE TAUBMAN: She's fantastic and I
24 would just add to your point in general that you
25 know this is an issue not just of legal change but

1
2 also cultural awareness. And that you know as you
3 say the consequences of not dealing with caregiving
4 are vast for all of us. It's something that the
5 rest of our economy, and our society rests on, all
6 of this unpaid often ignored work that people are
7 doing with their families sometimes with no credit
8 given sometimes even worse being penalized for it.
9 So I think it has repercussions for us all and
10 that's why we all should have an interest in it
11 even if at the moment we are ourselves not parents
12 or not caregiving for an elder parent or a disabled
13 relative. As you say it can happen at any point in
14 your life. You could become the person needing care
15 and want your caregiver to be able to get out of
16 you know their job to be able to take you to chemo.
17 I mean you never know what life will bring. And so
18 in that way this is an issue that impacts all of us
19 and so it should be of concern to more people and
20 not such a, you know such a necessarily contentious
21 proposal.

22 COUNCIL MEMBER KING: Okay and, and one
23 final question Madam Chair. Have you found with
24 those that who've you've, have come before you,
25 have you found that ethnicity is played a part in

1
2 any of this other than just you know they're a
3 parent, you know it, whether it because of the
4 color of the skin someone's being discriminated or
5 get placed in this category... We take care of one
6 person because they look one way but the next
7 person we won't accommodate. Have you find this
8 being an issue?

9 KATHERINE GREENBERG: I think that
10 there's often a lot of interseXionality between
11 different types of discrimination in the workplace.
12 And it really goes to the stereotyping aspect of
13 what this law is trying to prohibit. Sometimes when
14 a single mother comes in to apply for a job the
15 employer looks at her differently if she's one race
16 versus another race or one age versus another age.
17 Those things can really make a difference in the
18 assumptions that an employer has. And I think it's
19 very important that we deal with those kinds of
20 stereotypes in all of their aspect. So a single
21 mother who is white may have a different stereotype
22 than a single mother who is black. And if we're
23 just talking about the fact that she's a woman they
24 start to look the same. So to the extent that
25 people are being discriminated again because of all

1
2 the things that might make them different from the
3 decision maker we need to be able to put all of
4 those pieces together to really tell the story of
5 what's happening to this individual and why they
6 were treated the way they were treated.

7 COUNCIL MEMBER KING: Okay.

8 PHOEBE TAUBMAN: Yeah I would agree that
9 often times people we speak to there's a situation
10 that they encounter where they're getting push back
11 from the employer but they see others who are not
12 getting that same push back. And sometimes it's
13 hard to know is it because, just because I'm a
14 caregiver, maybe the other person in, has, also has
15 children but there's a racial difference or
16 something else. So as Katherine said it often does
17 overlap. But this work/family conflict especially
18 hits hard those who really work in low income work
19 places that have very inflexible work rules. You
20 know those are the sorts of jobs where they just
21 don't have as much autonomy and, and that's often
22 correlated you know with lower socioeconomic status
23 and sometimes with race. So these things come
24 together in that way for sure.

1
2 COUNCIL MEMBER KING: And if you could
3 as you, compiling more data moving forward can you
4 allow that to be part of the variable of
5 identifying by race who is actually being then
6 discriminated as caregivers? And this will give us
7 a better outlook also. Of if they're targeting one
8 set of New Yorkers or is it across the board.

9 PHOEBE TAUBMAN: I mean I do think the
10 issue is one that impacts people broadly. It's not
11 one particular group but it's as I say it falls
12 hardest on those who are already in you know tough
13 workplaces in terms of some rigid structures.

14 COUNCIL MEMBER KING: Okay. Thank you
15 and happy holidays.

16 [crosstalk]

17 CHAIRPERSON ROSE: Do you find that it
18 might be more difficult to identify caregiver
19 discrimination as opposed to other forms of
20 discrimination as you, Council Member King was
21 talking about? You know because of ethnicity or, or
22 gender or something is it, is it much more
23 difficult to identify caregiver discrimination?

24 PHOEBE TAUBMAN: I think, I think for us
25 we know the questions to ask and can often find out

1
2 it's the question of whether somebody comes to us
3 in the first place because they may not know that
4 this is an area where there could be some
5 illegality. They feel like something was unfair.
6 They feel like it was wrong. You know they're
7 frustrated but they don't always know oh I should
8 go call a legal organization. They just think maybe
9 you know I got a short end of the stick. I'm going
10 to move on. And so I think that you know it's,
11 it's, it's once I have someone on the phone I can
12 really dig in and I can find out those answers. But
13 I would say a lot of our calls to our hotline are
14 pregnancy cases because that's a more familiar
15 structure. People know about anti-discrimination in
16 the case of pregnancy because the Pregnancy
17 Discrimination Act's been around a long time. This
18 is a little bit more nuanced and I think that's
19 where the education, public education comes in,
20 trying to help people understand that there may be
21 redress for them when they experience this kind of
22 unfair treatment at work. But at, at the moment as
23 we've described with overlapping laws and some
24 confusion on the part of both employers and
25 employees many folks don't even come to us in the

1
2 first place because they don't think they have the
3 option of some justice.

4 CHAIRPERSON ROSE: Before I acknowledge
5 Council Member Chin's question Ms. Adams you've
6 been very patient and I, I just wanted to know how
7 did you know where to do or, or did you? And, and
8 how did you eventually find you know A Better
9 Balance.

10 DENA ADAMS: It was actually from a
11 woman who was interning there, a older woman, she
12 you know just needed something to do and she was
13 volunteering. And she heard what was going on with
14 me. She said you need to call A Better Balance they
15 can help you. That's all she said. And that's
16 exactly what I did. I called A Better Balance and
17 it's been on ever since.

18 CHAIRPERSON ROSE: Thank you. Council
19 Member Chin.

20 COUNCIL MEMBER CHIN: Thank you Madam
21 Chair. That was my question. Thank you so much for
22 coming to testify. When I heard... [interpose]

23 CHAIRPERSON ROSE: [off mic] I'm sorry.

24 COUNCIL MEMBER CHIN: That's okay. When
25 I first, when I heard Ms. Adams testimony and I, I,

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2 I feel for you. I mean as a mother you know you're
3 going through the situation. I guess you know my
4 question was related like did you feel that
5 something was wrong that you were being you know
6 discriminated or not treated fairly because I mean
7 you made so many suggestion. And the employers is
8 not listening and the fact that this is a nonprofit
9 organization.

10 DENA ADAMS: Exactly.

11 COUNCIL MEMBER CHIN: I mean I would
12 love to know which one it is in the city, if they
13 getting funding from the city council, the city.

14 [laughter]

15 DENA ADAMS: Exactly. When, when I...

16 [interpose]

17 COUNCIL MEMBER CHIN: Because it's like...
18 I, I mean that is important that I mean we all... You
19 know a lot of us come from the nonprofit world that
20 we would assume that they would be more
21 accommodating. So I guess I'm glad that I, I guess
22 from your answer that you, somebody mentioned A
23 Better Balance.

24 DENA ADAMS: Right because see when I
25 realized when I looked on the schedule and saw that

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2 my coworkers' schedules being revamped because of
3 schooling I said oh no, no, no something is not
4 right here. All I'm asking is for me to have a
5 steady schedule the same way as they do for me to
6 be there for my daughter. The same way they could
7 go to school I should be there, be there for my
8 child. Then that's when I realized you know what
9 this is discrimination. It's a different form of
10 discrimination but I am being discriminated against
11 because I'm a single parent. That's when the fire
12 lit in my belly and I wanted to fight.

13 COUNCIL MEMBER CHIN: You know that,
14 that's good I mean there's got to be this... You know
15 I, I'm sure anyone in your situation probably after
16 a while will feel that something is not right. I'm
17 not being treated fairly and it's good to have
18 organizations where they can call. And I asked
19 Council Member Gale Brewer to call those you know
20 other jurisdiction that have this law and see, you
21 know get some data from them, statistic from them,
22 how is it you know working out, how did they come
23 to pass that law. Because we're not going to be the
24 first one and there's already, all these city. I
25 mean Chicago, Boston... I mean these are not tiny

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2 little town but these are big city. And if they
3 have pass similar laws then we need to learn from
4 them. And I think that the great thing to do more
5 education and to educate people about what their
6 rights are. And especially on this issue of
7 caregiver it really affects all of us. The best way
8 is to get the law passed.

9 DENA ADAMS: Right.

10 COUNCIL MEMBER CHIN: And then when
11 people know that there is a law that you cannot
12 discriminate against caregiver that's the way to do
13 education and that's, I think that is really the
14 way to go and I really thank you all for coming and
15 really supporting this legislation. Hopefully we
16 could get it passed before the end of the year.

17 [laughter]

18 COUNCIL MEMBER CHIN: Thank you Madam
19 Chair.

20 CHAIRPERSON ROSE: Thank you so much
21 Council Member Chin. It would be wonderful if we
22 could. We've, since I've been chair we've seen a
23 number of employee/employer related discrimination
24 cases, laws that have come before us. And it has
25 just opened our eyes to the various forms of

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2 discrimination that people are experiencing. And I
3 know the Human Rights Commission is very hesitant
4 to add to the protective cases, protective classes.
5 And, but it seems like there is such a huge need to
6 expand the, the protective classes that really need
7 to be, to be looked at. So I am sorry that you've
8 had to experience this. It is very widespread. I'm
9 very interested in and I'm going to request from
10 the Human Rights Commission the data because I, I
11 think that this is something that is underreported.
12 I think that it's much more prevalent. I, I think
13 that it's probably, many of these cases get lost in
14 sort of gender based discrimination cases. So I'm,
15 I'm going to be asking for some more information
16 about these particular cases and I, I just want to
17 thank you. I want to thank you Legal Aid and A
18 Better Balance for being a place where people can
19 go when they have these, having experienced being a
20 caregiver and the fact that in your statement A
21 Better Balance's statement about the baby boomers
22 and, and in the, in the coming years that more of
23 us are going to be able to be called caregivers and
24 be faced with some of these decisions. I was always
25 lucky that my mom had Alzheimer's and I had a job

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2 where it didn't take a lot. I, you know, I just
3 pretty much said I need to go and, and I was able
4 to go. However a person should not be precluded
5 from being able to do that when, when the need
6 arises. So we're going to do everything we can to
7 sort of get this fast-tracked so that again a huge
8 number of the population will not have to
9 experience what unfortunately Ms. Adams you, you
10 did. And I just want to thank you for having that,
11 that fire in the belly and you know and say you go
12 girl.

13 [laughter]

14 CHAIRPERSON ROSE: You know for my
15 advocate groups Legal Aid and A Better Balance. I'd
16 really would like to see and I, I know your dollars
17 are limited but maybe you should request more money
18 so that people know what services are available and
19 that, and that there are some provision that you
20 can provide that will teach and train people what
21 discrimination looks like. Because had you not
22 pursued it or when I read your, the statement I
23 noticed that the person who was going on to pursue
24 their education was a male and so it could have
25 gotten lost as a, a gender based discrimination

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2 case. So I want to thank you for what you're doing.
3 I know my colleagues probably wouldn't appreciate
4 it but I think you should ask for more money.

5 [laughter]

6 CHAIRPERSON ROSE: And...

7 [background comments]

8 [laughter]

9 CHAIRPERSON ROSE: I know. I know. Yeah
10 when we walk, when we run the gauntlet... But I want
11 to thank you for your testimony and hearing none
12 other I'd like to say that this hearing it is 2:20
13 and this hearing is now adjourned. Thank you.

14 [gavel]

15 CHAIRPERSON ROSE: And I just want to
16 say this being the last hearing of the year we, we
17 might have to vote, but right now it's the last
18 hearing of the year I want to acknowledge everyone.
19 As I did earlier I want to thank you for, for
20 having all the support and, and for all the work
21 that people have done to make sure that Civil
22 Rights issues are current and that we are fighting
23 and, and passing meaningful legislation. There will
24 be a continued conversation about this particular
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COMMITTEE ON CIVIL RIGHTS

legislation. And again have happy, safe holidays.
Thank you all. Meeting adjourned.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date December 30, 2013