



Workplace 'Rights' for Women Are Not 'Gifts'

We appreciated the content of *A Gift for Families: More Workplace Rights for Women* (Wis. Law., July/Aug. 2023) by Alan C. Olson about workplace rights for women and the explanations about the recent federal laws, the Pregnant Workers Fairness Act and the Providing Urgent Maternal Protections for Nursing Mothers Act (or PUMP Act), and the minimum accommodations now required under those laws.

The title of the article calling these rights a "gift for families" was troubling, however. Women have always been working and reproducing, and they have been working outside the home in large numbers, while reproducing, for decades. Working while pregnant or nursing is not a gift. It is a necessity for women worldwide and, at times, an incredibly difficult experience.

Rather than an unearned "gift," the new laws are a long overdue recognition of rights and necessary protections for families and society at large. The laws will no doubt benefit families, but they will also benefit employers with improved morale and employee retention, and they will greatly benefit our society with improved maternal health and healthier future generations.

[Editor's Note: The editors are responsible for the article title, not the author. We thank Ms. Schwalbe for her candor; message received.]

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Revisiting COVID-19 'Safer at Home' Order

Remember the case *Wisconsin Legislature v. Palm*? Our legislature sued Andrea Palm, Secretary-designee of the Wisconsin Department of Health Services, to repeal her "Safer at Home Order" issued April 16, 2020, ordering all

persons in Wisconsin to stay at home along with restrictions for businesses under the threat of imprisonment for violations. The order extended a prior order for the purpose of controlling the spread of the COVID-19 pandemic. The Wisconsin Supreme Court granted the repeal on May 13, 2020, because Palm did not follow the rule-making procedures required by statute.

This created a "natural experiment" where something coincidentally happens in real life that mimics a randomized control experiment that could never be done. By this decision, Wisconsin became the only state without a statewide protective measure at the time (some counties had similar orders). Would this cause Wisconsin to immediately see a growth in COVID-19 spread and deaths?

Dire predictions were made. In her dissent, Justice Ann Walsh Bradley quoted Dr. Fauci and his warning about lifting a stay too early. Likewise, Justice Rebecca Dallet warned, "And it will be Wisconsinites who pay the price." Did we pay the price?

No. A study reported in the June 2023 *Journal of Empirical Legal Studies* (Vol. 20, No. 2) concludes, "In summary, there is very little evidence that the termination of Wisconsin's lockdown had deleterious effects on state COVID-19 spread and had smaller than expected impact on social mobility." The authors infer that it was the health-related "information shock" of the first order that caused most citizens to voluntarily continue limiting public interactions for their safety after the order was terminated. In my opinion, this is a rich lesson for using Bayesian statistical updating for future policymakers, and others with influence, to prevent publicly guessing about human behavior without consulting behavioral science data.

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