Policy Brief:
Paid Sick Days Preemption In Michigan

Revised June 17, 2015
**What is Paid Sick Days Preemption Legislation?**
Legislators in the Michigan House and Senate recently passed House Bill 4052 and sent it to Governor Snyder for his approval. If signed into law by the Governor, House Bill 4052 would take away Michigan communities’ ability to require that local employers offer a minimum number of paid sick days to their workers. Introduced by Representative Earl Poleski, the “Local Government Labor Regulatory Limitation Act” would also prevent cities from requiring businesses to pay workers the local “prevailing” wage or a wage above the state’s minimum. It would also stop local initiatives to bar employers from asking about criminal convictions on their initial job applications. After reading this policy brief, you are encouraged to contact Governor Synder and share your opinion regarding whether he should veto this preemption bill. See page 6 for contact information.

**Why Does Preemption Matter To The Michigan Partners Project?**
This issue is relevant for members of the Michigan Partners Project because of our commitment to advancing economic security among low-income women by supporting policies that reduce barriers to self-sufficiency, such as paid sick days.

- Lack of paid sick leave disproportionately affects low-income women of color.  
  
- In Michigan, more than one million workers lack paid sick days and women make up 69% of the low-wage workforce.  
  
- Industries where women predominate are among the least likely to offer paid sick days. For example, nearly ¾ of child care workers and food service workers do not earn paid sick days.  
  
- Eighty percent of mothers assume responsibility for their children’s doctor visits.  
  
- One third of working women provide care for an elderly relative, a person with disabilities or a special needs child.  

Michigan preemption legislation runs philosophically counter to the opportunity to pass paid sick days laws at the state and/or local levels.

**FMLA only covers unpaid medical leave, not paid sick days**
Under the Family Medical Leave Act (FMLA) of 1993, a “qualified individual” is allowed to take up to twelve weeks per year of approved unpaid leave without fear of losing their job. Unfortunately, many employees do not qualify for FMLA because only full-time workers at companies with 50 or more employees are eligible for FMLA benefits. Another limitation is that FMLA only pertains to longer-term medical leaves such as those following childbirth or surgery, but not to routine medical care and minor illnesses.
Across America, cities and states are passing paid sick days ordinances
The United States is far behind peer-industrialized countries in terms of family-work life policies. It is the only developed country without a national law guaranteeing paid sick leave. Because efforts to pass a nationwide law requiring paid sick days have been blocked by conservatives in Congress, states and cities began passing their own laws to cover the gaps not addressed by FMLA. Much of the progress has been through ground-up initiatives utilizing local mobilization. City ordinances have passed in 17 cities and statewide legislation has passed in California, Connecticut and Massachusetts.

Michigan legislators are also considering paid sick leave bills
This year in Michigan, paid sick leave legislation was introduced as House Bill 4167 and Senate Bill 101. These bills would require Michigan employers to offer one hour of paid sick leave for every 30 hours a person worked. Small businesses with less than ten employees wouldn't have to offer more than 40 hours of sick leave per year (5 days) and other businesses wouldn't have to offer more than 72 hours per year (9 days). Paid sick days could be used for the worker's illness or medical appointments or those of a family member. The law would apply to both part-time and full-time employees.

To thwart these state and local efforts, opponents introduce preemption bills
With growing momentum for paid sick days, opponents of this policy have coordinated a campaign to preempt local and state governments from mandating employer benefits. The American Legislative Exchange Council (ALEC) and National Restaurant Association (NRA) are the main players behind the opposition. ALEC is a national membership association of state legislators who partner with corporate and private foundation members “to develop policies and programs that effectively promote the Jeffersonian principles of free markets, limited government, federalism, and individual liberty.” The National Restaurant Association, sometimes referred to as “the other NRA” due to its formidable lobbying power, is the largest foodservice trade association in the world. Employing nearly 13 million people in the U.S., the restaurant industry is the nation’s second-largest private-sector employer.

The nation’s first preemption bill, which overturned Milwaukee Wisconsin’s paid sick days ordinance, passed in 2011. Since then, legislators around the country have introduced 105 preemption bills, 63% percent of which were sponsored by ALEC lobbyists. In addition to preventing local action for paid sick leave, preemption bills have also targeted living wage and prevailing wage laws. To date, preemption bills prohibiting paid sick days have been enacted in 11 states.

During Michigan’s last legislative session, the Michigan Restaurant Association testified in support of a preemption bill. The Michigan Municipal League, which represents the interests of local governments across the state, spoke out against preemption.
What Are the Key Arguments For Paid Sick Days?

Low-wage workers often cannot afford to miss even a day of work
Kleman, Daley, and Pozniak\textsuperscript{24} found that 46% of American workers could not take sick time when they needed it because they could not afford an unpaid day. Smith and Kim\textsuperscript{25} found that 16% of workers lost their jobs or were punished for missing work when they took time to care for themselves or their sick children.

Access to paid sick days improves public health
Those without paid sick days are 1.5 times more likely to go to work sick and contagious, which puts coworkers and customers at risk of illness.\textsuperscript{26} The U.S. Centers for Disease Control and Prevention\textsuperscript{27} found that sick food handlers were the leading cause of foodborne illness in the United States. Approximately 76 million food-borne illnesses are
reported in the U.S. each year, resulting in an average of 325,000 hospitalizations and 5,000 deaths. Gould, Filion, & Green report an incident where a Subway worker was threatened with losing her job after she requested to go home early, having just thrown up. The manager told her to change her shirt to hide the discharge stains and finish her shift. Unfortunately, this is not uncommon. Ninety percent of food service workers do not have paid sick days and nearly seventy percent of them report cooking, preparing or serving food while sick.

Paid sick days improve worker productivity, morale and job loyalty
When sick workers are faced with reduced pay or potential job loss if they miss work, many choose to go to work sick. Stewart, Ricci, Chee, & Morganstein found that the U.S. workforce loses 160 billion dollars per year in lost productive time due to health-related low productivity at work, also known as “presenteeism.” Parents with access to paid sick days “are nearly twice as likely to report being very satisfied with their work than those without access.” Workers who took paid sick leave after Connecticut’s law went into effect were more likely to continue working for that same employer than were workers who had no paid sick leave benefit prior to the law’s enactment.

Why Are Some Groups Opposed to Paid Sick Days Legislation?
Some argue that sick leave will drive up labor costs, forcing some businesses to reduce employees’ hours or pay, lay off workers, or increase customer prices. Some in Michigan suggest that local paid sick leave ordinances will cause statewide businesses to face a patchwork of different employment benefit requirements.

However, numerous studies show opponents’ concerns are overstated
Researchers have collected data from communities where paid sick days laws were enacted and found the majority of employers report no increase in costs due to mandatory paid sick days. In most cases, employers do not incur additional costs because they redistribute work to other employees or delay it until the worker returns, rather than add new workers. In California, nine percent of employers actually reported cost savings.

One year after implementing Seattle’s ordinance, a study by the Main Street Alliance of Washington -- a coalition of small business owners in the state -- found “no evidence of widespread negative economic impacts” on small businesses, particularly in the food service and retail sectors. The report further noted:

Multiple national studies have found that providing paid sick leave can benefit businesses through higher morale and productivity, less absenteeism, and lower rates of turnover, offsetting some or all of an employer’s direct cost of providing paid leave.
A city of Seattle audit\textsuperscript{45} to assess the impact of its ordinance on affected businesses estimated that only 7\% passed costs on to consumers, 6\% decreased raises or bonuses, 5\% decreased vacation time, 2\% reduced positions and 1\% closed or relocated.

An audit of the law in Washington D.C. found it did not discourage business owners from starting businesses in the city, nor did it encourage existing businesses to leave the city. \textsuperscript{46}

**There is Broad Public Support for Paid Sick Days**

Data from a survey conducted by the National Opinion Research Center found overwhelming support from the public -- regardless of political affiliation -- for mandatory paid sick days.\textsuperscript{47} The report’s authors noted “substantial majorities of all socio-demographic and political groups consider paid sick days a very important worker’s right.” Another national poll asked voters in the November 2012 election about their views on laws that support work-family integration. The study by Lake Research Partners and The Tarrance Group found that 86\% of respondents “said it is important for Congress and the president to consider new laws like paid sick days and paid family and medical leave insurance to help keep families financially secure. Nearly two-thirds said it is ‘very important.’” \textsuperscript{48}

A recent poll of Michigan residents who intend to vote in November 2016 found that 83\% would support a statewide paid sick days law. \textsuperscript{50} Similar to the studies noted above, the Michigan poll documented vast support for paid sick days across all demographic categories including political party, race/ethnicity, gender, age and geographic region within the state.
Michigan voters are more likely to support legislators who support paid sick leave.\textsuperscript{51, 52, 53}

What Should I Tell Governor Snyder?
Michigan Partners Project members are encouraged to advocate for low-income women and families by letting Governor Snyder know your thoughts about paid sick days and attempts to preempt local mandates of this benefit. You may also want to contact your state representative and senator to find out whether or not they supported preemption by voting for House Bill 4052.

Call the Governor: (517) 335-7858
Email the Governor: https://somgovweb.state.mi.us/GovRelations/ShareOpinion.aspx

Find your state house representative at: http://house.michigan.gov/mhrpublic/
Find your state senator at: http://www.senate.michigan.gov/fysbyaddress.html

How Can I Get More Involved?
The Earned Sick Leave Coalition represents community leaders, elected officials, citizens and nonprofit organizations advocating for Michigan’s legislature to pass a state-wide law granting workers the right to earn paid sick days. Learn about the Coalition’s efforts at: http://www.grbj.com/articles/81872-coalition-launches-campaign-for-earned-paid-sick-leave and at http://www.mipaidssickdays.org. Contact Danielle Atkinson, Director of Mothering Justice, at 313-971-1492 or daniellekatkinson@gmail.com to learn more.

This paper was written by Jennifer Nulty, Ebony Reddock and Beth Sullivan at Center for the Education of Women, University of Michigan. (Initially written April 2015. Revised June 2015) www.cew.umich.edu

Endnotes
7 Heymann, J. (2000). The widening gap: Why America's working families are in jeopardy and what we can do about it.
8 See note 7.
13 Covert, B. (2013). Paid sick days have Momentum—but the Opposition Might Have More. The Nation.
14 See note 11.
34 See note 32.
41 See note 39.
42 See note 38.
45 See note 40.
46 See note 35.
47 See note 25.
49 See note 25.
51 See note 50.
52 See note 30.
53 See note 25.