

**Testimony of the Greater Philadelphia Chamber of Commerce
on City Council Bill 080468**

June 10, 2008

Good morning Chairman Greenlee and members of the Committee on Law and Government. For the record, I am Joseph W. Mahoney, Executive Vice President of the Greater Philadelphia Chamber of Commerce (GPCC). Joining me today at the witness table is Denise H. Earley, Director of Public Policy for the GPCC.

We come before you today to ask questions about and to offer comments on City Council Bill 080468, an ordinance amending Section 9-1103 of the Philadelphia Code, entitled "Unlawful Employment Practices," and enacting a new Chapter 9-3200, entitled "Entitlement To Leave Due to Domestic or Sexual Violence," to provide that certain employees may take unpaid leave from work to address domestic or sexual violence; all under certain terms and conditions.

Let me preface my prepared remarks on Bill 080468 by outlining the GPCC membership for you. We have approximately 5,000 member companies stretching across 11 counties in three states of the Greater Philadelphia region. Fifty-four percent of our membership is in Philadelphia, and 85% of our membership represents small businesses with less than 100 employees. GPCC membership with less than 50 employees is 3,200.

When Bill 080468 was introduced on May 8, 2008, sponsored by Council members Greenlee, Clarke and Green, the GPCC immediately sent out a notice to our Philadelphia businesses to obtain their comments and feedback on this bill and to ascertain the impact Bill 080468 would likely have on their businesses.

While most were sympathetic to the issue of domestic violence, and certainly the GPCC understands the intent of the bill to help these victims, the overwhelming majority of businesses replied that this could be devastating to their business, and it would be particularly onerous on small businesses which, as I mentioned previously, represents 85% of our membership.

Under Bill 080468, employees would be entitled to eight workweeks of leave during any 12-month period from an employer who employs 50 or more employees or four workweeks of leave during any 12-month period from an employer who employs less than 50 employees.

This bill would broaden the circumstances covered by the federal Family and Medical Leave Act (FMLA) of 1993. For instance, threats of violence or stalking would not be eligible under FMLA. This bill would also broaden to scope to cover employers with less than 50 employees—FMLA covers employers with 50 employees or more. This expansion could be particularly onerous to the many small employers based in Philadelphia.

In addition to the negative economic implications on employers, Bill 080468 raises an array of other issues and questions for businesses, like:

- . the certification and documentation process, and the administrative and record keeping processes that would be burdensome on businesses to implement and maintain, particularly since the proposed leave may be taken intermittently or on a reduced work schedule;
 - . what is meant by, “the employee shall provide such certification to the employer *within a reasonable period* after the employer requests certification”?
 - . other questions and concerns that we received include the opportunities to abuse the proposed benefit;
 - . requiring only 48 hours’ notice to the employer, if at all;
 - . how do you prove “household member”?
 - . this leave should not be a recurring benefit. There must be responsibility on the part of the victim to get out of the abusive situation. Employers should not expect to grant leave every year.

As many businesses have moved to Paid Time Off (PTO) which includes sick, vacation, personal time, etc., under this bill would employers be permitted to require employees to exhaust their PTO, or sick, vacation, personal time before accessing this proposed annual leave time?

Finally, we have been asked how Bill 080468 would apply to temporary staffing agencies. Who would be required to cover the proposed leave, the staffing agency or the temporary employer?

Under the category of unintended consequences, it is conceivable that it could raise the question in a prospective hiring manager’s mind as to the likelihood that the candidate might become a victim of domestic or sexual abuse. Does this then contribute to gender discrimination?

Another unintended consequence of Bill 080468 would be for employers to reduce hourly rates of pay and/or to discontinue other benefits, like paid vacation time, retirement programs, reduce staff, etc. in order to pay for this additional leave time. Mandating time off for victims of domestic or sexual violence may make it difficult for employers to offer time off for other reasons, such as to observe religious holidays or to spend time with family members going to or returning from military service. Many employers are already providing military leave and this added tier of regulation could be

the final decision for an employer to stay in Philadelphia or leave. Employers need flexibility to deal with the myriad reasons employees may need time off. These policies are best determined by individual businesses, not mandated by the City.

The City has made great strides and the current Administration is working hard to improve the attractiveness of Philadelphia as a destination to live, work and play. Mayor Nutter has proposed tax reductions to both the Wage and Business Privilege Taxes that this Council just passed on May 22, and the Mayor signed into law. Essential to the continued success of the City is a vibrant downtown with thousands of workers present every day. This bill, if passed, will place Philadelphia at a competitive disadvantage with our surrounding neighbors. It is particularly onerous for multi- state employers who may choose to move their employees out of the City.

Again, the GPCC is not insensitive to the needs of abuse victims, but as a business organization we cannot stand by and watch businesses leave the city due to excessive regulation. Private employers simply cannot be asked to bear additional costs of this nature without significant consequences.

Thank you for this opportunity.