

Assembly Bill 1119

Anti-Discrimination for Family Responsibilities
Assemblymember Buffy Wicks (AD-15)

THIS BILL

This bill prohibits discrimination against employees based on their family responsibilities and helps ensure working families have access to reasonable accommodations to deal with school and care closures.

THE ISSUE

According to the Department of Labor, roughly [60 percent](#) of two-parent households with children under age 18 have both parents working¹ — a reality that has significant impacts on both employees and their employers. Moreover, [more than 1 in 6](#) Americans working full-time or part-time report assisting with the care of an elderly or disabled family member, relative, or friend² and [over 1 in 12](#) employed adults are caring for both children *and* elderly or disabled adults.³ Most employees will have caregiving responsibilities at some point in their professional lives.

Family responsibilities discrimination (FRD) occurs when an employer takes a negative employment action against an employee based on their responsibility to care for a

¹Bureau of Labor Statistics, The Department of Labor, “Employment in Families With Children in 2016,” available at

<https://www.bls.gov/opub/ted/2017/employment-in-families-with-children-in-2016.htm>.

² Bureau of Labor Statistics, The Department of Labor, “Unpaid Eldercare in the United States--2017-2018 Summary,” available at

<https://www.bls.gov/news.release/elcare.nr0.htm>

³ Pew Research Center, “More than one-in-ten U.S. parents are also caring for an adult,” available at

https://www.pewresearch.org/wp-content/uploads/2018/11/FT_18.11.29_MultiGenCare_Tables_pdf.pdf

family member. Mothers and fathers of young children, pregnant and breastfeeding people, and employees with aging parents or sick spouses or partners may encounter family responsibilities discrimination. Employment actions – like termination, refusal to hire, or demotion – may be based on biases about how workers with family caregiving responsibilities will or should act, without regard to the workers’ actual performance or preferences.

This type of discrimination affects employees of every income level, race, gender, and industry. Working mothers and pregnant people, though, are most likely to experience FRD, with low-wage earners and people of color [disproportionately impacted](#)⁴. [One study found](#) mothers were 79% less likely to be recommended for hire, half as likely to be promoted, and offered an average of \$11,000 less in salary for the same position as similarly qualified non-mothers⁵.

Caregiver discrimination claims are often addressed by other existing laws - like those prohibiting discrimination because an employee has a family member with a disability, or prohibiting retaliation for taking family and medical leave. However, businesses are often caught off guard by FRD lawsuits because they do not normally think of family caregivers as a protected

⁴ U.S. Equal Employment Opportunity Commission, “Enforcement Guidance: Unlawful Disparate Treatment of Workers with Caregiving Responsibilities,” May 23, 2007, available at

<https://www.eeoc.gov/laws/guidance/enforcement-guidance-unlawful-disparate-treatment-workers-caregiving-responsibilities>

⁵ Correll, S. J., Benard, S., & Paik, I. (2007). Getting a job: Is there a motherhood penalty? *American Journal of Sociology*, 112(5), 1297-1338, available at

https://www.jstor.org/stable/10.1086/511799?seq=1#meta_data_info_tab_contents

class. In a time when employees are struggling to balance their jobs and caring for their families, disparate treatment because of their family responsibilities should not be a reason for termination or other adverse employment action.

Moreover, these same employees need workplace support that would allow them to provide care without losing their economic security. According to the US Bureau of Labor Statistics, [80 percent](#) of the nearly 1.1 million workers who dropped out of the labor force in September were women⁶. Women are [twice as likely](#) as men to say they left work for caregiving responsibilities due to childcare provider or school closures⁷.

SOLUTION

AB 1119 would prohibit employers from discriminating against employees based on their family responsibilities by adding "family responsibilities" to the list of protected characteristics (e.g., race, sexual orientation, marital status, religion, etc.) that are already prohibited bases of discrimination under the employment provisions of the Fair Employment and Housing Act.

This bill would also provide employees with caregiving responsibilities with the right to reasonable accommodations to deal with school or care closures.

SUPPORT

California Lawyers Employment Association
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California Work and Family Coalition
Center for Work Life Law

⁶ Bureau of Labor Statistics, The Department of Labor, "Employment Situation Summary -- FEBRUARY 2021," available at <https://www.bls.gov/news.release/empsit.nr0.htm>

⁷ "New Survey: Facing Caregiving Challenges, Women Leaving the Workforce at Unprecedented Rates," Bipartisan Policy Center, October 28, 2020, available at <https://bipartisanpolicy.org/blog/facing-caregiving-challenges/>

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