

Assembly Bill 524

Family Caregiver Discrimination

Assemblymember Buffy Wicks (AD-14)

THIS BILL

AB 524 prohibits discrimination against employees based on their status as a family caregiver.

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 caregiver discrimination occurs when an employer takes a negative employment

action against an employee based on their status as a caregiver. Employment actions—like termination, refusal to hire, or demotion—may be based on biases about how workers who are caregivers will or should act, without regard to the workers' actual performances or preferences. Mothers and fathers of young children, pregnant and breastfeeding people, and employees with aging parents or sick spouses or partners may encounter caregiver discrimination.

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 this type of discrimination, 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

¹ Bureau 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

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>

qualified non-mothers.⁵ Another study found that working mothers suffer a penalty relative to non-mothers and men in the form of lower perceived competence and commitment at work.⁶ In fact, competency ratings of working mothers were 10 percent lower than non-mothers who were otherwise equal candidates, and working mothers were considered to be 12.1 percentage points less committed to their jobs than non-mothers.⁷

Family 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. Adding family caregiver status to existing discrimination law would provide important clarification to employers that family caregiver status is protected by law.

In a time when employees are struggling to balance their jobs and caring for their families, disparate treatment because of their status as a caregiver should not be a reason for termination or other adverse employment action. According to the US Bureau of Labor Statistics, 80 percent of the nearly 1.1 million workers who dropped out of the labor force early in the pandemic were women.⁸ Women are twice as likely as men to say they left work for caregiving responsibilities due to childcare provider or school closures.⁹

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#metadata_info_tab_contents

⁶ *Id.*, at 1297-1339.

⁷ Correll, *et al.*, at 1297-1339.

⁸ Bureau of Labor Statistics, The Department of Labor, "Employment Situation Summary -- FEBRUARY

SOLUTION

AB 524 would prohibit employers from discriminating against employees based on their status as a caregiver by adding "family caregiver status" 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.

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2021," available at

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

⁹ "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/>