





September 15<sup>th</sup>, 2023

The Honorable Gavin Newsom  
Governor of the State of California  
1021 O Street, Suite 9000  
Sacramento, CA 95814

Re: AB 524 (Wicks) The Family Caregiver Anti-Discrimination Act

Dear Governor Newsom,

On behalf of the following organizations, we respectfully request your signature on AB 524 (Wicks): The Family Caregiver Anti-Discrimination Act. AB 524 would prohibit discrimination against employees based on their family caregiver status. In other words, the bill prohibits employers from treating a worker adversely based on assumptions or stereotypes associated with their family caregiving.

**Four states and over 200 local jurisdictions have already enacted laws outlawing employment discrimination against parents and other caregivers, covering 35% of the American workforce. It is time for California to catch up.**

Family caregiver discrimination occurs when an employer takes a negative employment action against an employee based on their responsibility to care for a family member. 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.

AB 524 addresses family caregiver discrimination by adding family caregiver to the list of protected characteristics (e.g., race, sex, sexual orientation, marital status, religion, etc.) that are already prohibited bases of discrimination under the employment provisions of the Fair Employment and Housing Act (FEHA). The bill was amended to narrow the definition of family to include a finite list of family members and a “designated person,” as defined by current law. **Recent amendments clarify that a family caregiver is someone who provides direct care to a family member and further specify that employers are not required to provide special accommodations because of family caregiver status, including with respect to absenteeism, benefits, leave, scheduling, or work performance. This additional clarity is likely to reduce enforcement costs to the state.**

By explicitly labeling family caregivers as a protected class, AB 524 would encourage employers to treat them based on their job performance, instead of bias, which has the power to both save jobs and avoid lawsuits.

In fact, a 2021 report from the Center for WorkLife Law found **the likelihood an employer will be sued under an explicit caregiver discrimination law is nearly zero**. Importantly, the impact on government agencies investigating such claims of litigation was similarly low.<sup>i</sup>

- In the years following the prohibition of caregiver discrimination in New York and Minnesota the number of complaints filed at state agencies decreased.
- The majority of claims alleging family caregiver discrimination also include other basis for the claims. Therefore, the claim would likely have been filed even absent a prohibition on caregiver discrimination.
- Claims based solely on family caregiver status discrimination made up less than one percent of all employment discrimination complaints filed at state agencies in Alaska and Minnesota.

In fact, as noted by researchers, by clarifying that employment discrimination based on caregiver status is unlawful, AB 524 may prevent lawsuits and

discrimination complaints at the state agency. For example, discriminatory practices based on an employee's status as a mother may constitute sex discrimination.<sup>ii</sup> However, employees may not be aware of their assumptions or the unlawful nature of their actions. AB 524 makes explicit that employers may not use family caregiver status as the basis for adverse employment actions.

In addition, although the Civil Rights Department speculated that claims filed under caregiver discrimination would be more complex, leading to increased costs even absent an increase in the number of claims, we believe that the amendment clarifying that there is no separate accommodations requirement will diminish the fiscal impact by preventing confusion from the outset. Moreover, a caregiver discrimination claim would share a common set of facts with other claims and is not likely to complicate an investigation.

For all of these reasons our organizations are proud to support AB 524 and urge you to sign AB 524 into law.

Sincerely,

9to5

A Better Balance

AAUW California

ACCE Action

ACCESS REPRODUCTIVE JUSTICE

BreastfeedLA

California Breastfeeding Coalition

California Calls

California Coalition on Family Caregiving

California Employment Lawyers Association

California Federation of Business and Professional Women

California Immigrant Policy Center

California Pan-Ethnic Health Network

California Partnership to End Domestic Violence

California WIC Association

California Women Lawyers

California Women's Law Center  
California Work & Family Coalition  
Care in Action  
Caring Across Generations  
Center for Law and Social Policy (CLASP)  
Center for WorkLife Law  
Child Care Law Center  
Citizens for Choice  
COLAGE  
Consumer Attorneys of CA  
Ella Baker Center for Human Rights  
Equal Rights Advocates  
Family Caregiver Alliance  
Family Values @ Work  
Friends Committee on Legislation of California  
Futures Without Violence  
Gender Equality Law Center  
GRACE - End Child Poverty in California  
Human Impact Partners  
Jewish Center For Justice  
JTMW LLC  
Justice for Migrant Women  
Justice in Aging  
LA Best Babies Network  
La Raza Centro Legal  
Labor Council for Latin American Advancement  
Legal Aid at Work  
Los Angeles Alliance for a New Economy

Lutheran Office of Public Policy - California  
MomsRising  
Mujeres Unidas y Activas  
NAACP San Jose Silicon Valley  
NARAL Pro-Choice California  
National Association of Social Workers – California Chapter  
National Center for Transgender Equality  
National Council of Jewish Women CA  
National Council of Jewish Women Los Angeles  
National Domestic Workers Alliance  
National Employment Law Project  
National Employment Lawyers Association  
National Institute for Workers' Rights  
National Organization of API Ending Sexual Violence  
National Partnership for Women & Families  
National Women's Law Center  
National Women's Political Caucus of California  
Orange County Equality Coalition  
Our Family Coalition  
Parent Voices, California  
Pilipino Association of Workers and Immigrants South Bay  
Public Counsel  
Public Justice Center  
Rising Communities formerly Community Health Councils  
ROC United  
Santa Clara County Wage Theft Coalition  
Supermajority  
TechEquity Collaborative



Thai Community Development Center  
The California Commission on the Status of Women and Girls  
The Restaurant Opportunity Center of the Bay  
The San Jose Peace & Justice Center  
UFCW Western States Council  
Vermont Network Against Domestic and Sexual Violence  
Women Employed  
Women's Foundation California  
Worksafe

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<sup>i</sup> University of California College of the Law San Francisco, Center for Worklife Law, *Clarification or Complaints? The Impact of Family Responsibilities Discrimination Laws on State Enforcement Agencies* (2022), <https://worklifelaw.org/wp-content/uploads/2022/07/Clarification-or-Complaints-The-Impact-of-Family-Responsibility-Discrimination-Laws-on-State-Enforcement-Agencies.pdf>

<sup>ii</sup> See, Equal Employment Opportunity Commission, *The COVID-19 Pandemic and Caregiver Discrimination under Federal Employment Discrimination Laws* (Mar. 14, 2022), <https://www.eeoc.gov/laws/guidance/covid-19-pandemic-and-caregiver-discrimination-under-federal-employment>. Though the guidance was issued in relationship to the pandemic, it is intended to reiterate the applicability of prior policy. This guidance supplements portions of the guidance issued in the Bush administration. Equal Employment Opportunity Commission, *Enforcement Guidance: Unlawful Disparate Treatment of Workers with Caregiving Responsibilities* (May 23, 2007), <https://www.eeoc.gov/laws/guidance/enforcement-guidance-unlawful-disparate-treatment-workers-caregiving-responsibilities#gender>.