




Family Caregiver Discrimination Policy Guidance



STATE INNOVATION EXCHANGE





No one should be forced to choose between providing care for their loved ones and keeping the paying job they need to survive. Prohibiting employment discrimination against family caregivers promotes economic security, health, and equity by ensuring that employees can meet all of their obligations.

What Is Family Caregiver Discrimination?

Family caregiver (or family responsibilities) discrimination occurs when parents and those who care for elderly or disabled family members suffer adverse employment actions due to an employer bias that says caregiving responsibilities make workers unreliable, uncommitted, and less valuable as employees—regardless of their actual job performance. These assumptions can lead to lower wages, lack of advancement, harassment, and job loss. Employment discrimination against workers with family caregiving responsibilities is common and has devastating economic and health consequences.

- Family caregiver discrimination prevents employees from providing adequate care for their family members and can negatively impact [employee health](#).
- The income of mothers is [critical](#) for most American families, but [bias against mothers](#) is the strongest form of gender bias against women and is [largely responsible](#) for the gender pay gap.
- Fathers today spend more time [caring for their children](#) and wish to spend more, but they can face [harsh caregiving penalties](#) at work, which can be particularly damaging for [single parents](#).
- Workers who care for disabled or elderly family members also face [harmful bias](#). [One in every six Americans](#) provides care for a family member over 50, and [82%](#) of Americans who care for both an elderly person and a minor child are also employed.
- While most Americans will care for a family member during their working life, women, LGBTQ+ folks, and people of color are the most likely to be [driven into poverty as a result](#).

What Laws Currently Protect Family Caregivers from Discrimination?

Six states ([Alaska](#), [Delaware](#), [Illinois](#), [Maine](#), [Minnesota](#), and [New York](#)) and over 200 local jurisdictions around the country explicitly prohibit discrimination based on parental or caregiver status—covering [almost a third](#) of the American workforce.


In states where family caregivers are not explicitly protected, employees facing discrimination must instead rely on a complicated and incomplete patchwork of state and federal laws. Laws prohibiting discrimination based on sex, pregnancy, disability, or race and retaliation for taking/requesting leave can protect caregivers in certain situations, but many caregivers are not covered, leaving them with no legal rights. And even when rights do exist, the interplay of anti-discrimination laws and caregiver bias is widely misunderstood by employers and courts. Too many workers fall through the cracks.

What Are the Benefits of Caregiver Anti-Discrimination Laws?



WORK
LIFE
LAW





Statutes that prohibit discrimination based on family caregiver status help to ensure that workers are treated based on their job performance instead of biased policies. This reform has the power to promote economic, health, and gender equity by ensuring that common life events, like becoming a parent or tending to a sick relative, don't cause families to fall into poverty. They are also critical for women's economic advancement and closing the gender and racial wage gaps. These laws can also help to improve [caregiver mental health](#) and ensure that children, people with disabilities, and the elderly are well taken care of.

Caregiver anti-discrimination laws also have the power to help employers avoid lawsuits. Because discrimination against family caregivers can cause employers to run afoul of laws that prohibit other forms of discrimination (e.g., on the basis of sex, pregnancy, or disability), lawsuits brought by family caregivers for violations of these laws have been on the [rise](#). However, laws that explicitly prohibit caregiver discrimination provide employers with much-needed clarity that this form of treatment is illegal. And discrimination complaints filed with state enforcement agencies [decreased](#) after these laws went into effect. The annual likelihood that a company will be sued under a family responsibilities discrimination law is [essentially zero \(0.001%\)](#), according to data from the four states that already prohibit it.

Example Caregiver Anti-Discrimination Legislation

Current state laws that give rights to caregivers at work prohibit employers from discriminating against employees because of their family caregiving responsibilities (e.g., firing someone because they are providing care for a family member). However, another important protection for caregivers is reasonable accommodations or job modifications (e.g., schedule changes) that allow them to meet their obligations to both their employer and their family member. See below for examples of both protections.

Anti-discrimination Only: Illinois – Enacted state legislation ([2024 IL HB 2161/Chapter 68, Sec. 2-101](#)) makes it illegal for employers to discriminate against or harass employees or applicants due to their family responsibilities or perceived family responsibilities. This law uses broad definitions of “family member” and “care” from Illinois’ pre-existing sick days law. Employment discrimination can take many forms, including decisions on hiring and firing; compensation; employment terms; work conditions; or any privileges, opportunities, or status provided to employees. This law specifies that it does not mean employers are required to make accommodations or modifications.

Delaware – Enacted state legislation ([2016 DE HB 317/Chapter 292](#)) makes it illegal for employers to discriminate against individuals due to their family responsibilities. Here, the definition of “family” is limited to the federal FMLA definition. This law specifies that employers are not required to make accommodations but uses pro-worker language in doing so: “so long as all policies related to leave, scheduling, absenteeism, work performance, and benefits are applied in a non-discriminatory manner.”





Accommodations Required: California – A pandemic-era state bill ([2022 CA AB 2182](#)) would have not only prohibited employment discrimination based on family responsibilities but also required employers to provide reasonable accommodations for any employee who needed to care for a family member due to unforeseen closure of a school or the lack of availability of a care provider. This would include making overtime optional, as well as allowing employees to use paid time off, reduce their work hours, work remotely, swap shifts with a coworker, or temporarily change job duties. A [San Francisco ordinance](#) provides the right to request accommodations such as changes to hours/schedules, job sharing arrangements, predictable hours, and telework, which employers must provide for employees engaged in caregiving, absent undue hardship.

Resources for Action

A state legislative agenda must be set in collaboration with the communities most impacted by the legislation. Model policy offers a place to start, but caregivers should be consulted as key collaborators when creating a legislative agenda. State Innovation Exchange can connect you with those partners if you are not already collaborating with them.

- [Draft legislation](#) and sample advocacy tools from the Center for WorkLife Law
- [List](#) of the 200+ state and local laws prohibiting caregiver discrimination
- [EEOC Guidance](#) on unlawful treatment of workers with caregiving responsibilities
- [2021 Report](#) finding that caregiver discrimination laws do not increase litigation rates
- [2022 Report](#) finding that enforcement agency complaints decreased after enactment

