

# STATE PAID FAMILY LEAVE

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## WHAT IS STATE PAID FAMILY LEAVE?

Paid family leave is a workplace benefit policy that allows workers to take paid leave from work in order to care for themselves and family members. Paid sick leave and paid family leave removes the dilemma faced by workers: choosing the health of themselves or family members over facing financial stability. Unlike most industrialized countries, there is no federal requirement for providing any paid sick or family leave for American workers. The federal Family and Medical Leave Act (FMLA) only guarantees unpaid leave of up to 12 weeks to a subset of employees -- workers who have put in at least 1,250 hours in the last 12 months for companies

that employ 50 or more people. Currently, about twelve percent of the workforce has employer-provided paid family leave.<sup>1</sup> Additionally, about forty percent of the workforce does not have personal medical leave through their employers.<sup>2</sup> When people do not have access to paid leave, the effects can be life-changing. Without adequate paid leave policies, Americans are faced with increased financial hardship, additional debt, and increased inequality and poorer health outcomes in the long-term. All of these consequences have an overall negative effect on society.

## WHY IT IS AN LGBTQ ISSUE?

Paid family leave is an LGBTQ issue because LGBTQ people and their families have even fewer protections under the limited paid leave protections provided today. Compared to non-LGBTQ people, LGBTQ people say they need more time off to care for a family member. Forty-two percent of LGBTQ people take time off from work to care for family members, whereas only thirty-one percent of non-LGBTQ people take time off for the same reason.<sup>3</sup> Moreover, there is a lack of support for chosen families.

Chosen families are two or more people who share a deep bond like that of marriage, blood or adoption. Chosen families can take multiple forms for the LGBTQ community due to the unique challenges that impact how we form our families. For example, it is typical for the non-biological parent to wait six months before they can adopt their child. During the wait period, it may be necessary for the non-biological parent to take time off from work to assist their partner in child care.

In addition, LGBTQ youth are more likely to face rejection from their family solely because of who they are. Due to this unfortunate reality, LGBTQ youth are at a higher risk for living with an adult who may not be their legal guardian, yet operates as a de facto parent. However, there is no legal recognition for this role, preventing the de facto parent from taking time off to care for the youth.

Seven out of ten LGBTQ Americans live in states with no family leave law, or with laws that only allow workers access to paid leave for a biological or legal relationship with a child.<sup>4</sup> Without clear, consistent federal protections prohibiting discrimination on the basis of sexual orientation and gender identity, many LGBTQ people are at risk of being fired or facing adverse employment action if they request leave. Additionally, paid medical leave is essential for LGBTQ people. In particular, LGBTQ people often need leave to for transition-related healthcare or treatment related to HIV.

## WHAT STATES CAN DO?

Currently, Arizona, California, the District of Columbia, New Jersey, New York, Rhode Island, Vermont, and Washington have statutes requiring some form of paid family leave. However, all of these states limit the term “family” to a narrow legal definition, excluding LGBTQ workers’ chosen families. Today’s families come in a variety of shapes and sizes. This is particularly true for the LGBTQ community. It is critical that state laws reflect this reality by providing inclusive paid leave benefits for our families.

Additionally, Arizona, California, Connecticut, Massachusetts, Oregon, the District of Columbia, Vermont, and Washington have some form of paid leave statutes. States should be implementing legislation for family and sick paid leave that allow employees to use accrue paid medical and family leave based off the number of hours an employee works, similar to many vacation policies in place.

## CONCLUSION

Today, millions of American workers are not entitled to paid medical or family leave. Additionally, the policies that do exist often define benefits in terms of legal relationships. This leaves LGBTQ workers vulnerable when they or their chosen family members become ill.

No American should have to choose between caring for themselves or a family member and financial stability. State officials can and should take leadership on protecting LGBTQ workers by exercising their legislative authority to pass inclusive paid leave policies.



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<sup>1</sup> See U.S. Bureau of Labor Statistics, *National Compensation Survey: Employee Benefits in the United States*, Tables 16 and 32 (Sept. 2016), available at <http://www.bls.gov/ncs/ebs/benefits/2016/ebbl0059.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> See Katherine Gallagher Robbins, et al., *People Need Paid Leave Policies that Cover Chosen Family*, Ctr. for American Progress, at 6 (Oct. 30, 2017).

<sup>4</sup> *Id.*