

AT A GLANCE:

FAMILY CAREGIVER DISCRIMINATION

Introduction

No one should be forced to choose between providing care for their loved ones and keeping the paying job that they need to survive. Prohibiting employment discrimination against family caregivers promotes economic security, health, and equity by ensuring 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 their elderly or disabled family members suffer adverse employment actions due to an employer bias that caregiving responsibilities make workers unreliable, uncommitted, and less valuable as employees—regardless of 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. obligations.

- Family responsibilities discrimination prevents caregivers from providing adequate care to their family members and can negatively impact an [employee's 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?

Four states ([Alaska](#), [Delaware](#), [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, and race, or retaliation for taking/requesting leave can protect caregivers in certain situations, but many are not covered, leaving caregivers 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?

Statutes prohibiting discrimination based on family caregiver status help to ensure workers are treated based on their job performance, instead of bias. 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, and they are critical for women's economic advancement and closing the wage gap. These laws may also help to improve [caregiver mental health](#) and to ensure 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, and disability), lawsuits brought by family caregivers for violations of these other laws have been on the [rise](#). However, laws that explicitly prohibit caregiver discrimination provide much-needed clarity to employers 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 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

While none of the existing state laws that address family caregiver discrimination require employers to provide worker accommodations, recent legislation includes this pro-worker policy option. See below for examples of both.

Accommodations Not Required: Delaware

Enacted state legislation ([2016 DE HB 317/Chapter 292](#)) makes it illegal for an employer to discriminate against an individual due to their family responsibilities. 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 create any obligation for an employer to make special accommodations for an employee with family responsibilities, 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 recent state bill ([2022 CA AB 2182](#)) would not only prohibit employment discrimination on account of family responsibilities, but it would also require employers to provide reasonable accommodations to an employee who needs to care for a family member due to unforeseen closure of a school or unavailability of a care provider. These accommodations could include using paid time off, making overtime optional, reducing work hours, working remotely, swapping shifts with a coworker, or temporarily changing job duties. A [San Francisco ordinance](#) includes the right to a flexible or predictable working arrangement, which includes accommodations such as changing hours/schedule, job sharing arrangements, predictable hours, and telework.

Resources for Action

- [Model legislation](#) and a step-by-step drafting guide 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