



the work and family legal center

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Supporting LGBT Families and New Yorkers Living with HIV/AIDS: The Need for Paid Family Leave in New York

When a medical emergency strikes—or when a child is born, adopted or placed for foster care—many workers are unable to take time off from work. Fortunately, advocates and policymakers in New York are working to pass the Paid Family Leave Act (S-3004 / A-3870), a bill that would provide workers in New York with paid family leave to care for new children or seriously ill loved ones. Although paid family leave is crucial for all workers, passage of this bill would have specific benefits for LGBT workers, people living with HIV/AIDS, and their loved ones.

- **Few workers in the United States have access to paid family leave.** As of March 2014, only 12% of private sector workers in the U.S. receive paid family leave from their employers.¹ As a result, many LGBT workers are forced to go to work during times of family need because they cannot afford to lose pay or risk job loss. The consequences of choosing between family and a paycheck can be especially devastating for LGBT Americans, who report lower levels of financial security than non-LGBT Americans.²
- **The Paid Family Leave Act is a common-sense proposal to provide paid family leave.** By modernizing New York's current Temporary Disability Insurance (TDI) program, the Paid Family Leave Act would provide workers with up to 12 weeks of benefits—financed *solely* through small employee payroll contributions—to bond with a new child, care for a seriously ill family member, or address certain military family needs. The bill is LGBT-inclusive and explicitly allows workers to care for a child (broadly defined), spouse, domestic partner, parent, parent of a spouse or domestic partner, grandparent, grandchild, or sibling.
- **Paid family leave is an economic justice issue.** Low-wage workers in New York are much less likely to receive paid family leave than the workforce as a whole. According to recent government data, workers whose wages are in the bottom 25% of the workforce are approximately four times less likely to receive paid family leave than the top 25% of wage earners.³ When a new child is welcomed home or a family member is seriously ill, low-wage workers typically rely on every paycheck to make ends meet; access to paid family leave during these times of need would provide critical financial security to low-wage LGBT workers and people living with HIV/AIDS.
- **LGBT workers need paid family leave to care for their children.** In New York, 16% of all same-sex couples and 33% of same-sex spouses are raising children; research also suggests that between one-quarter and one-half of transgender individuals in the U.S. are parents.⁴ Many of these LGBT families are struggling financially. Single LGBT adults raising children are three times more likely than their non-LGBT counterparts to be living near the poverty line, and same-sex couples raising children are twice as likely to be living near the poverty line than different-sex couples raising children.⁵ As a result, it is less likely that LGBT workers can afford unpaid time off from work to care for a newborn, newly adopted, or seriously ill child. The Paid Family Leave Act would strengthen LGBT families by allowing workers to take paid leave to care for new or seriously ill children.
- **LGBT health disparities make paid family leave a critical need for the LGBT community.** LGBT Americans generally have a higher risk of cancer than the population at large; for example, lesbians and bisexual women have a higher risk than heterosexual women of developing breast, ovarian, and endometrial cancers.⁶ Research has also shown that LGBT older adults are more likely to delay health care and suffer from chronic health conditions than non-LGBT older adults.⁷ In addition, the Centers for Disease Control reports that transgender Americans are among the groups at highest risk for HIV infection, with especially high rates of HIV/AIDS among transgender women of color.⁸ Due to these health disparities, many LGBT workers need paid family leave to care for loved ones with a serious health condition or need loved ones to take time off from work to provide care to them.
- **Paid family leave is especially important for LGBT families of color in New York.** LGBT people of color are more likely to be raising children than white LGBT individuals.⁹ Research has also shown that people of color, especially those who are young adults, are less likely to have access to job-protected paid family leave.¹⁰ As a result, many LGBT people of color face professional and financial risks when they need to provide care for a newborn, newly adopted, or seriously ill child. In addition, black and Latino/a LGBT individuals are more likely

to be in poor health than heterosexual and white Americans and have higher rates of cancer, diabetes, and HIV/AIDS.¹¹ The Paid Family Leave Act would provide an important health and economic safety net to LGBT families of color.

- **Paid family leave would support the health and caregiving needs of people living with HIV/AIDS.** Approximately 132,000 people in New York—more than reported in any other state—are living with HIV/AIDS.¹² Furthermore, nearly 77% of New Yorkers living with HIV/AIDS are 40 years of age or older, a fact that heightens the need for paid family leave.¹³ As the population of New Yorkers living with HIV/AIDS continues to age, their working family members will face increased eldercare demands. If workers receive paid family leave, they will not be forced to risk their jobs or economic security in order to care for family members with HIV/AIDS-related health complications. The benefits of receiving care from a loved one are significant; research shows that family caregivers can help family members to recover from illnesses more quickly and spend less time in hospitals.¹⁴
- **The federal Family and Medical Leave Act (FMLA) falls short.** The FMLA, a federal law, guarantees eligible workers *unpaid*, job-protected leave to bond with a new child, care for a seriously ill relative, recover from one’s own serious health condition, or address certain military family needs. However, many Americans—more than 40% of all workers and 80% of new mothers—are not covered by the FMLA, including many part-time workers and those employed by businesses with fewer than 50 employees. Among those who *are* covered by the FMLA, many can’t afford to take unpaid leave. In addition, the FMLA only allows leave to care for spouses, parents, and children; the law does not cover domestic partners, parents-in-law, grandparents, grandchildren, or siblings.¹⁵
- **Paid family leave is good for business.** California, New Jersey, and Rhode Island have successfully passed and implemented similar paid family leave programs, and an overwhelming majority of California employers believe paid family leave has had a positive or neutral effect on their business operations.¹⁶ Moreover, research has shown that paid family leave leads to business savings, by increasing employee retention, lowering turnover costs, improving productivity, and enhancing worker morale and loyalty.¹⁷

¹ U.S. Department of Labor (DOL), Bureau of Labor Statistics, *Table 32: Leave Benefits: Access, Private Industry Workers*, National Compensation Survey (March 2014), <http://www.bls.gov/ncs/ebs/benefits/2014/ownership/private/table32a.htm>.

² A recent Gallup poll found that 39% of non-LGBT adults reported that they were thriving financially, compared to only 29% of LGBT adults. See Gates, G.J., *LGBT Americans Report Lower Well-Being*, Gallup (Aug. 2014), www.gallup.com/poll/175418/lgbt-americans-report-lower.aspx.

³ Ibid. See also Farrell, J. and Venator, J., *Fact Sheet: Paid Family and Medical Leave*, Center for American Progress (Aug. 2012), p. 2.

⁴ Gates, G.J. and Cooke, A.M., *New York Census Snapshot: 2010*, The Williams Institute (2013), p. 3 (this figure is likely even higher; for example, it does not include single LGBT parents or same-sex couples raising children with whom they are not related by birth, marriage, or adoption); Stotzer, R.L., Herman, J.L., & Hasenbush A., *Transgender Parenting: A Review of Existing Research*, The Williams Institute (Oct. 2014), p. 2.

⁵ Gates, G.J., *LGBT Parenting in the United States*, The Williams Institute (Feb. 2013), p. 1.

⁶ See, e.g., Dibble, S.L., Roberts, S.A. & Nussey, B. *Comparing Breast Cancer Risk Between Lesbians and their Heterosexual Sisters*, Women’s Health Issues. (Mar.-Apr. 2004), 14(2), pp. 60-68; Miller, M., Andre, A., Ebin, J. & Bessonova, L., *Bisexual Health: An Introduction and Model Practices for HIV/STI Prevention Programming*, National LGBTQ Task Force, Fenway Community Health & BiNet USA (2007), pp. 4, 41, 108; National LGBT Cancer Network, *Cancer and the LGBT Community*, www.cancer-network.org/cancer_information/cancer_and_the_lgbt_community/.

⁷ Fredriksen-Goldsen, K.I., *Resilience and Disparities among LGBT Older Adults*, in Public Policy and Aging Report: Integrating LGBT Older Adults into Aging Policy and Practice, SAGE & National Academy on an Aging Society (Summer 2011), 21(3), p. 5.; SAGE and MAP, *Improving the Lives of LGBT Older Adults* (March 2010), p. iii.

⁸ *HIV Infection among Transgender People*, Centers for Disease Control and Prevention (CDC) (Aug. 2011), www.cdc.gov/hiv/transgender/pdf/transgender.pdf.

⁹ MAP, Family Equality Council & Center for American Progress, *LGBT Families of Color: Facts at a Glance* (Jan. 2012), p. 2.

¹⁰ Farrell & Venator, *Paid Family and Medical Leave*, p. 2; Boushey, H. and Glynn, S.J., *The Effects of Paid Family and Medical Leave on Employment Stability and Economic Security*, Center for American Progress, (Apr. 2012), p. 2.

¹¹ *LGBT Families of Color: Facts at a Glance*, p. 2.

¹² New York State Department of Health, Bureau of HIV/AIDS Epidemiology and AIDS Institute (NYSDOH), *HIV/AIDS Surveillance Annual Report: For Cases Diagnosed Through December 2012* (July 2014), p. 6; CDC, *HIV Surveillance Report: Diagnoses of HIV Infection in the U.S. and Dependent Areas, 2013* (Feb. 2015), Table 20, p. 69.

¹³ NYSDOH, *New York State HIV/AIDS Surveillance Annual Report*, p. 27.

¹⁴ For more on the benefits of family caregiving, see, e.g., Houser, A. and Gibson, M.J., “Valuing the Invaluable: The Economic Value of Family Caregiving, 2008 Update,” AARP Public Policy Institute, Nov. 2008, pp. 1-2, 6; Houser, A. and Gibson, M.J., “Valuing the Invaluable: A New Look at the Economic Value of Family Caregiving,” AARP Public Policy Institute, June 2007, p. 6.

¹⁵ Appelbaum, E. & Milkman, R., *Leaves that Pay: Employer and Worker Experiences with Paid Family Leave in California*, CEPR (Jan. 2011), p. 1; J.A. Klerman, K. Daley & A. Pozniak, *Family and Medical Leave in 2012: Technical Report* (Abt Associates, prepared for DOL, Sept. 7, 2012), i. To learn more, see A Better Balance, *The Family and Medical Leave Act: What Should LGBT Families Know?* (March 2015), www.abetterbalance.org/web/home/forfam/know-your-rights.

¹⁶ Appelbaum and Milkman, *Leaves that Pay*, p. 4.

¹⁷ Ibid, pp. 5, 8; A Better Balance, *Investing in Our Families: The Case for Family Leave Insurance* (Sept. 2013), www.abetterbalance.org/web/ourissues/familyleave.