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The LGBTQ Community and Paid Leave: FAQ

Do LGBTQ people need parental leave?

Yes! Studies show that every day in America, an estimated 1.2 million same-sex couples are raising between 1.3 and 2.2 million children. LGBTQ individuals and couples form families through adoption, birth, and surrogacy. Like other working families, in the absence of paid leave same-sex couples rely on an imperfect safety net to piece together time with their new children. This often means parents head back to work weeks, or sometimes even days, after giving birth or adopting a child.

What about LGBTQ parents who are not legally related to their children?

As a result of systemic discrimination, including in state adoption laws, many LGBTQ people become parents through commitment and shared responsibility and do not have a legal relationship with their child through marriage or adoption. The Family and Medical Leave Act (FMLA) recognizes these parents as *in loco parentis*. This means that these parents are able to take leave under the statute. Current legislation that would provide paid leave utilizes this definition—providing paid leave for all parents including those that become parents by parenting rather than a legal process.

What does paid medical leave mean for people living with HIV/AIDS?

Gay and bisexual men and transgender women, particularly in communities of color, continue to be disproportionately impacted by the HIV/AIDS epidemic. There is still no cure for the disease, and access to care is essential to ensure that individuals living with HIV/AIDS are able to live longer, healthier lives. Without paid leave, individuals living with HIV/AIDS and their caregivers are often forced to navigate an incomplete safety net—choosing between receiving or giving critical care and a paycheck.

What does paid leave mean for transgender people and their families?

Transition related care is covered under the FMLA, however utilizing this leave unpaid is a luxury that is often out of reach for many transgender workers and their caregivers. Due to systemic discrimination in employment, education, and housing, transgender people are more likely to live in poverty or live paycheck to paycheck than compared to the general population. Without paid leave many transgender people are forced to forgo lifesaving gender affirming care and treatment. Similarly, many parents and spouses of transgender individuals seeking transition related care are forced to choose between caring for their loved one and keeping food on the table.



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Can workers receive paid leave through their state?

Currently 3 states –California, New Jersey, and Rhode Island— provide for 4-6 weeks of paid family leave through their state disability assistance programs. New York and the District of Columbia have enacted paid leave legislation, but these policies are not yet effective. 7 states and the District of Columbia states have paid sick leave laws, but these are usually limited to several days.

Are there current federal protections?

No. The United States is consistently the only industrialized nation that offers no paid family or medical leave for working families. However, there have been federal solutions proposed in Congress. These proposals would provide workers with up to 12 weeks of financial support during a family or medical leave from work. This leave would cover time taken following the birth or adoption of a child including time to recover from pregnancy and childbirth, as well as leave taken to care for a sick child, parent, spouse or domestic partner, recover from illness personally, or time taken for military caregiving and leave purposes.