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New Report Points to Development of Laws Prohibiting Family Responsibilities Discrimination

Communities Go Beyond State and Federal Statutes in Enacting Caregiver Protections at Work

Proliferation of Local Ordinances Means Employers Must Coordinate Workplace Policies Carefully

SAN FRANCISCO, CA - At least 63 local governments in 22 states—including some of the nation's major urban areas—have passed employment anti-discrimination laws that go beyond federal and state statutes to ensure that those with caregiving responsibilities are not discriminated against at work. Cases filed under these local laws, such as one recent decision in Chicago, have the potential to result in substantial damages, fines, and attorneys fees.

Today, the Center for WorkLife Law at the University of California, Hastings College of the Law released the first comprehensive nationwide survey of state and local laws that prohibit family responsibilities discrimination, or FRD. FRD occurs when employees are penalized at work—fired, demoted, denied promotions or employment benefits, or harassed—because of their caregiving responsibilities at home, whether for children, an ill partner, or an elderly relative. While most of the local laws cover parents and those with responsibilities for children, some go further to include other caregiving relationships.

The new report shows that, going beyond state and federal statutes, cities and counties have taken it upon themselves to ensure their residents are not discriminated against in public and private employment settings based on familial status or responsibilities.

The laws surveyed specifically include parental status, familial status, or family responsibilities as a protected class in employment protections—similar to sex, race, and religion. Most call for administrative redress, fines, or injunctive relief. Many allow for monetary awards for damages, some including punitive damages and attorneys' fees.

This year, the Chicago Commission on Human Relations awarded a mother of two nearly \$215,000 in damages and fines, plus \$87,000 in attorneys' fees and costs, in her complaint for employment discrimination based on parental status under Chicago's Human Rights Ordinance.

"While awareness of the issue of caregiver discrimination is growing, few know that a significant number of city and county laws specifically include familial status or responsibilities as a protected class in employment anti-discrimination protections," said Stephanie Bornstein, associate director of the Center and co-author of the report. "Communities around the country, from Chicago, Atlanta, and Boston to smaller cities and counties have passed laws that go beyond what state and federal law requires when it comes to protecting workers from being penalized for their responsibilities at home."

In recent years, FRD has gained attention, most notably when the U.S. Equal Employment Opportunity Commission (EEOC) issued Enforcement Guidance on caregiver discrimination in 2007, explaining how discrimination against caregivers can be litigated under existing federal law, and suggested best practices for employers in 2009. The Center for WorkLife Law's new report details laws on the local level that offer worker protections in addition to federal law.

"This report makes clear that employers must carefully weigh their employment policies and practices against not only federal and state laws that allow employees to sue for caregiver discrimination, but now against a patchwork of local laws that provide express protections, too," noted Bornstein.

The full report, *Caregivers as a Protected Class?: The Growth of State and Local Laws Prohibiting Family Responsibilities Discrimination*, is available at www.worklifelaw.org/pubs/LocalFRDLawsReport.pdf.

The Center for WorkLife Law is a nonprofit research and advocacy group, directed by Distinguished Professor of Law Joan C. Williams, which works with employees, employers, attorneys, unions, and policymakers to develop effective measures to address family responsibilities discrimination and other work/life issues. For more information, visit www.worklifelaw.org.

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