



# What the FAMILY Act Means for the LGBT Community

By Sarah Jane Glynn and Jane Farrell      December 12, 2013

In many ways, families look the same today as they have for decades. People fall in love and get married. Babies are born, grow up, and start the cycle anew. Parents and family members age and often rely on care from others during their senior years. While the love that bonds family life has not changed over time, the way families live and work has. Most parents work, and most families rely on two incomes<sup>1</sup>; more families are providing elder care as Baby Boomers age,<sup>2</sup> and 80 percent of children live in a household without a full-time stay-at-home caregiver.<sup>3</sup> Families today do not love each other any less than in the past, but how families juggle work and family has changed dramatically—and workplace policies have not kept up.

The United States is the only advanced economy in the world that does not guarantee workers access to any form of paid leave.<sup>4</sup> Without access to leave, individuals too often find themselves in a position where they have to choose between providing care for a loved one and bringing in enough money to cover rent, groceries, and basic household repairs. The Family and Medical Insurance Leave Act, or FAMILY Act, will help address this core issue facing working families today: the need to coordinate paid employment with unpaid caregiving in the home.<sup>5</sup> While we pay a great deal of attention to the role of mothers as caregivers, even mothers themselves will at some point rely on partners, sons, daughters, or other relatives for care. As gender roles and families change and as Baby Boomers retire, everyone is increasingly likely to be a caregiver. The FAMILY Act will provide up to 12 weeks of leave with partial wage replacement to male and female workers after the birth of a new child, to recover from a serious illness, or to provide care for a seriously ill family member.

Access to family leave insurance is designed to benefit all workers, regardless of their gender, parental status, age, ability, or income level. While the program has universal benefits, there are also specific ways that it will benefit lesbian, gay, bisexual, and transgender, or LGBT, workers.

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## Benefits to the LGBT community

### LGBT workers have more barriers to accessing paid leave

Depending on where they live and work, LGBT workers may have to contend with a variety of legal barriers that prevent them from using leave to care for their families, dependents, and partners under the Family and Medical Leave Act of 1993, or FMLA.<sup>6</sup> Often, LGBT workers cannot establish a legal relationship with their loved ones and are unable to access this benefit.<sup>7</sup> FMLA leave is available only to same-sex couples living in one of the 16 states—or the District of Columbia—where they can legally marry.<sup>8</sup> This leaves 34 states where workers and their partners can find themselves at the whim of their employers and have no explicit legal protection from discrimination based on sexual orientation or gender identity. The FAMILY Act would expand the umbrella to cover more LGBT workers with paid leave by allowing workers to use earned leave for “domestic partners”—and not just “spouses,” per the FMLA—even if they are not legally recognized in their state.<sup>9</sup>

### LGBT workers are just as likely to have caregiving responsibilities and are more likely to need self-care

There are 5.4 million LGBT workers in the United States, and 37 percent of LGBT adults—approximately 3 million Americans—have at least one child.<sup>10</sup> Moreover, LGBT workers are just as likely to have a parent or aging relative who may need care and assistance in old age. LGBT workers from ages 45 to 64 are more likely to be providing care to a friend or relative than the general population, and they report having to provide more hours of care each week.<sup>11</sup>

Because of health disparities in the LGBT community—including higher risks of chronic illnesses and conditions such as certain cancers, HIV/AIDS, and diabetes—LGBT workers are more likely to need time off to care for themselves or a partner.<sup>12</sup> The FAMILY Act would ensure their economic security if and when workers need to take a period of leave to treat and recover from an illness.

### LGBT workers need the economic support that paid leave offers

While many Americans assume that LGBT individuals, partners, and families are more economically secure than the general population, this is not the case.<sup>13</sup> Rates of poverty and unemployment are higher for LGBT workers than non-LGBT workers, and LGBT couples raising children are twice as likely to have household incomes

near the poverty line as married or partnered non-LGBT parents.<sup>14</sup> The FAMILY Act would cover more workers—including low-wage workers—and LGBT workers, especially LGBT workers of color who are more likely to face economic hardships, would be among those beneficiaries.<sup>15</sup>

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## Conclusion

The FAMILY Act will help lift our entire economy by providing a vital and earned benefit for workers of every background, regardless of their gender, ethnicity, parental status, age, ability, or income level.<sup>16</sup> It is impossible to predict what challenges individuals will face down the road, but supporting them with paid family leave is an important first step to ensure these hardships do not spill over and negatively impact their families and our economy.

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## Endnotes

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- 3 Sarah Jane Glynn, "The New Breadwinners: 2010 Update" (Washington: Center for American Progress, 2012), available at <http://www.americanprogress.org/wp-content/uploads/issues/2012/04/pdf/breadwinners.pdf>.
- 4 Jane Farrell, "The United States Is Falling Behind in Paid Leave Policies," Center for American Progress, February 5, 2013, available at <http://www.americanprogress.org/issues/labor/news/2013/02/05/51776/the-united-states-is-falling-behind-in-paid-leave-policies/>.
- 5 National Partnership for Women & Families, "Fact Sheet: The Family and Medical Insurance Leave Act (FAMILY Act)" (2013), available at <http://www.nationalpartnership.org/research-library/work-family/paid-leave/family-act-fact-sheet.pdf>.
- 6 A Better Balance, "The Family and Medical Leave Act: What Should LGBT Families Know?" (2013), available at [http://abetterbalance.org/web/images/stories/Documents/For-Families/ABB\\_Fact\\_Sheet\\_-\\_LGBT\\_Families\\_and\\_the FMLA.pdf](http://abetterbalance.org/web/images/stories/Documents/For-Families/ABB_Fact_Sheet_-_LGBT_Families_and_the FMLA.pdf).
- 7 Movement Advancement Project, Center for American Progress, and Human Rights Campaign, "An Impossible Choice: LGBT Workers and Family Leave Laws" (2013), available at <http://www.lgbtmap.org/file/family-leave-brief.pdf>.
- 8 Jared Make, "Time for a Change: The Case for LGBT-Inclusive Workplace Leave Laws & Nondiscrimination Protection" (Washington: A Better Balance, 2013), available at <http://abetterbalance.org/web/images/stories/Documents/general/reports/TimeforaChangeFullReport.pdf>.
- 9 Movement Advancement Project, Center for American Progress, and Human Rights Campaign, "An Impossible Choice."
- 10 Ibid.
- 11 Make, "Time for a Change."
- 12 Ibid.
- 13 Movement Advancement Project and others, "A Broken Bargain for LGBT Workers of Color" (2013), available at <http://www.lgbtmap.org/file/a-broken-bargain-for-lgbt-workers-of-color.pdf>.
- 14 Movement Advancement Project, Center for American Progress, and Human Rights Campaign, "An Impossible Choice."
- 15 Movement Advancement Project and others, "A Broken Bargain for LGBT Workers of Color."
- 16 Ann O'Leary, Heather Boushey, and Alexandra Mitukiewicz, "The Economic Benefits of Family and Medical Leave Insurance" (Washington: Center for American Progress, 2013).