

## MODEL STATE FAMILY RESPONSIBILITIES PROTECTION ACT

**Discrimination based on familial status and family responsibilities is unlawful under a variety of existing laws. Yet, in all but a handful of states, it is not expressly prohibited.** With a few exceptions, under current state and federal law, people who experience familial status or family responsibilities discrimination must fit their claims into an appropriate legal theory—as discrimination based on gender, a violation of family and medical leave laws, or another legal theory.

Each of the 50 states has its own fair employment practices law that prohibits discrimination based on race, gender, and other “protected classifications” as defined by the state. Currently, only a few states include protections for some family caregiving responsibilities within their state fair employment practices laws.<sup>1</sup> Expressly listing familial status, including family responsibilities, as a protected classification under state anti-discrimination laws would provide greater protection for mothers and other workers with family caregiving responsibilities from being discriminated against at work.

The following is a model statute to define and add “familial status,” including family caregiving responsibilities, to a state’s list of protected classifications under its existing fair employment practices law. Currently, 42 states already include “familial status” as a protected classification under their *housing* anti-discrimination protections, but not their employment anti-discrimination provisions, and *only* define “familial status” for housing as parenthood with the presence of children under the age of 18 domiciled in the home. Because the model statute may be used nationwide, each state must adapt the language to fit with its own current anti-discrimination laws, including whether it has a definition of “familial status” included in its housing protections. States with “familial status” in their housing anti-discrimination laws will need to consider whether to define the term differently for purposes of employment anti-discrimination laws or to incorporate but add on to the definition in their housing laws.

### **A BILL TO AMEND [STATE STATUTE PROHIBITING EMPLOYMENT DISCRIMINATION]**

#### **Section 1. Short Title.**

This Act shall be known as the “Family Responsibilities Protection Act”

#### **Section 2. Protected Class.**

*[To all lists of protected classes or classifications in the substantive employment anti-discrimination provisions in the state statute, insert the following:]* “familial status”[or “family responsibilities” *NOTE: if you use this term here, change all other terms to match*]

#### **Section 3. Definitions. [To be appended to the state statute’s definitions.]**

*Option 1: For states that have “familial status” in their housing anti-discrimination law and one anti-discrimination act that covers both housing and employment discrimination:*

For purposes of the employment provisions of [state’s anti-discrimination act], the term “familial status” means the state of being a provider of care, or being perceived to be a provider of care, for a family member, whether in the past, present, or future, [including, but not limited to, [insert housing code section that defines “familial status” if it makes sense to do so in your state.]]

*Option 2: For states that have no definition of “familial status” in housing anti-discrimination law or have separate acts governing discrimination in housing and in employment:*

The term “familial status” means the state of being a provider of care, or being perceived to be a provider of care, for a family member, whether in the past, present, or future.

**Section 4. Construction.**

Nothing in this section is intended to limit, and nothing in this section shall be interpreted as preempting or limiting, any claim or cause of action that persons alleging discrimination on the basis of familial status or family responsibilities may otherwise have under any state or federal law, or any claim, cause of action, or defense that an employer may have under state or federal law.

**NOTES**

<sup>i</sup> See the Center for WorkLife Law’s website at <http://www.worklifelaw.org/FRD.html>