

Testimony before the LABOR AND INDUSTRY COMMITTEE PUBLIC HEARING
Thursday, June 5, 2014, 9:30 a.m.
Room 60 EW

by Kiki Peppard
MomsRising.org Activist
9 to 5 National Association of Working Women Action Network Member

To the Honorable Members of the House Labor and Industry Committee:

Thank you for this opportunity to testify before you regarding House Bill 2271. Passage of this legislation would prohibit discrimination against workers based on marital/familial status. I would like to open my testimony by asking two simple questions.

#1 – Would each one of you and everyone in this room to please raise your hand if you have a mother (alive or deceased). Please do so now. As you look around the room you will see a unanimous vote. Everyone has a mother. This is as indisputable as the old “birds and the bees” story. Please put your hands down. If we all have a mom, why aren’t we supporting all moms in Pennsylvania?

My next question is for every man in this room: How many of you have been asked during a job interview when you plan to impregnate a woman? Do you find this insulting? Invasive? Maybe even perverse? Certainly not relevant to your job qualifications, skills and experience is it? In Pennsylvania, according to the archaic Human Relations Act of 1955 – we call it legal. No, I didn’t think any man was ever asked that question but I am sitting before you today to tell you that I know of many women who are asked during a job interview when they plan to become pregnant. This question is sometimes asked even before a review of their resume by the interviewer.

My story has been told numerous times of my first 19 job interviews where I was denied employment because I had to reveal the fact that I was a single mom during the job interview. The stigma attached to both married and single moms as being undependable, unreliable employees has gone on long enough. Have you heard comments like “they take too much time off from work to care for their kids”? I don’t know what quantifies as “too much time” but I do know that a child with untreated strep throat can lead to complications of rheumatic heart disease. I do know that children cannot drive themselves to the pediatrician. And I do know that while employers may label us as unreliable, if we do not get the proper medical care that our children need, Child Protective Services would label us as “neglectful”.

I don’t know why or what employers and society have against single moms or married moms. They feel it is OK to treat us differently – most particularly - unfairly. We’re not all candidates for MTV’s Teen Mom show.

Let me tell you who single mothers are: women who have lost their husbands in the war are single mothers. Women who have survived spousal abuse and who have divorced their husband are single mothers. Widows of 9/11 are single mothers. Maybe even your own mother may be a single mother. Paints a different picture when you look at it this way doesn’t it?

The employment discrimination that exists applies to married mothers, single mothers and married and single females without children. I have heard countless stories of women who recently graduated college, some at the top of their class, with thousands of dollars in student loan debt anxious to embark on their careers only to be asked during a job interview, “so when do you plan to have children”. What about her GPA? Skills, Talents, Abilities, Education???? There is more of a misaligned focus on her reproductive capability than her ability to perform the job. What if this was your daughter, sister, or wife that this happened to? Wouldn’t you be offended? Outraged? Or as other legislators who have fought against this legislation before you, do you find it totally acceptable to interrogate women on their childbearing and reproductive status when they are trying to get a job?

It is not acceptable! This is never, ever done to men in the workplace. Why is it OK in Pennsylvania to do this to our women?

I have been fighting to get this legislation changed for twenty very long years. I would like to tell you why it has not passed:

One legislator told me "off the record" that he was afraid that if the Human Relations Act were opened then the gays would fight to legalize marriage.

One legislator who was a committee chairperson had been in office for numerous decades. Talk about profiling: He was an elderly bachelor with no children. He deliberately held up the legislation every single session. Eventually he brought it to his committee but only on the last day of the session. The only reason he did so was because a reporter from a TV station brought the camera to his office asking him point blank why he didn't take action on it.

There was one senator (who was a committee chair) whose staff member told me that I had to send in letters from people wanting the legislation passed. I collected and sent in hundreds of petitions and letters. I called to find out the status and the aide said he just threw those letters in a drawer because the senator now wants letters from his "own" constituents only.

When that senator died mid-session, his successor told the newspapers that this issue didn't affect his constituents so he wouldn't take action on it.

I actually stopped fighting for this most worthwhile cause when I moved to Palmerton in Carbon County. I called my House Representative member seeking his support in re-introducing legislation. He said that not only would he never do such a thing, if legislation were introduced, he would do all in his powers to fight it. He didn't want any rights taken away from businesses. I explained to him that this legislation isn't against a business owner's rights. A business owner should hire the best qualified candidate for a job. A business owner should have the final say as to whom he/she wants working for him or her. A business owner does not have the right to interrogate women – married or single – about their reproductive status during the course of a job interview and that is what this is all about.

Ever since that fateful day and that conversation, I made some crucial decisions. I gave up my battle. I also stopped voting. I had not missed an election since I turned 18 years old. I voted in every primary, every single election for 42 years and I did so with pride. When my new legislator, the father of two daughters showed me his true colors that his loyalty was solely with his campaign contributors (meaning big business) rather than the rights of women, I was sickened. I wondered if he went home that evening, kissed his wife and daughters, then looked at himself in the mirror and felt proud of what he did that day and the message he gave me that women don't matter.

This is the last time you will hear me plead to you to pass this legislation that will give ALL of the women in Pennsylvania (not only your own constituents) the right to interview for a job with dignity. I hope I have convinced you that it is time – it is past time to pass this legislation. When you go home tonight and you look at your mother, your wife, your daughters or your granddaughters, will you tell them what you did at work today? Will you tell them, "hey, guess what! Today I voted against HB2271 so women can continue to be humiliated in job interviews – that includes you and every female in Pennsylvania!

Or, will you finally take a stand for us and look them in the eye and say, "Today I made a difference. Today I voted to support HB2271 so that you and everyone in the Commonwealth will interview for a job and given an opportunity to discuss your worth, your talents, your abilities, and your experiences. You will be valued for who you are – and I made that happen at work today. That's why I ran for office. That's why I am in office. To make a positive difference in the life of all Pennsylvanians – especially women and children.

The Declaration of Independence may have been signed in Pennsylvania, but until you pass this legislation, women, especially mothers, will go on without their independence and freedom to interview for a job with the dignity and respect they deserve.

Thank you.

(35)

To: Joanne Manganello 717-705-2088

For: All Members of the House Labor and Industry Committee

From: Kiki Peppard, Action Network Member 9 to 5 National Association of Working Women and activist for MomsRising.org.

Date: Faxed June 1, 2014

Subject: Supplemental material of testimony to be presented at Labor and Industry Committee Public Hearing Thursday, June 5, 2014, 9:30 a.m. Room 60 EW



Moms Rising



20:23:38 2014-06-01

Photo from "The Motherhood Manifesto" by Joan Blades and Kristin Rowe-Finkbeiner

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Articles to be submitted day of hearing:

- New Evidence on the Gender Pay Gap for Women and Mothers in Management, Testimony before the U.S. Congressional Joint Economic Committee Hearing by Michelle Budig, Associate Professor of Sociology, University of Massachusetts (10 pages)
- Caregivers as a Protected Class? The Growth of State and Local Laws Prohibiting Family Responsibilities Discrimination, Work Life Law, US Hastings College of the Law (31 pages)
- Gender & Work: Challenging Conventional Wisdom, Shelly J. Correll, Minimizing the Motherhood Penalty, Harvard Business School (5 pages)

Kiki Peppard

9 to 5 National Association for Working Women Action Network Member, Volunteer activist with MomsRising.org. Occupation: Certified Occupational Therapy Assistant providing rehabilitative services to geriatric population. Personal story on trying to end discrimination against mothers in job interviews in Pennsylvania is included but not limited to the following:

Books that include stories on Pennsylvania Maternal Profiling:

The Motherhood Manifesto, by Joan Blades and Kristin Rowe Finkbeiner

Women and the Economy – Family, Work and Pay by Hoffman – Averett

Taking on the Big Boys by Ellen Bravo

Mojo Mom, by Amy Tiemann

Maternal is Political by Shari MacDonald Strong

Human Relations by Marie Dalton, Dawn G. Hoyle and Marie W. Watts

Relaciones humanas / Human Relations By Marie Dalton, Dawn G. Hoyle, Marie W. Watts

Monster Careers – How to land the job of your life by Jeff Taylor, Doug Hardy

Women of the Revolution – Forty Years of Feminism, Edited by Kira Cochrane

THE IMPACT OF WOMEN'S GROWING PARTICIPATION IN THE WORKFORCE: "THE SHRIVER REPORT: A WOMEN'S NATION CHANGES EVERYTHING", creator: United States Congress House of Representatives Committee on Education and Labor Subcommittee on Workforce Protections

Television appearances:

The American Law Journal, program entitled *EMPLOYMENT: The Mommy Wars - Discrimination Against Mothers at Work*

Comcast Cable TV Newsmakers, Harrisburg, PA

Ivanhoe Broadcasting Smart Women Series

PCN – Pennsylvania Cable Network

PBS – airing of the documentary film *The Motherhood Manifesto*

WVIA Woman to Woman

ABC Good Morning America

News8, Austin, Texas

WTLZ, Tallahassee, Florida

News 14 Carolina, Charlotte, North Carolina

WPTV News, Palm Beach, Florida

WFMZ, Allentown, PA

WVIA, Scranton, Wilkes-Barre, PA

Published articles:

Workplace Challenges of Millennium Mothers

Pampers, Parenting and Politics

Profiling Pocono Mothers

Newspaper/Magazine/Internet Coverage:

The New York Times, Pittsburgh Post Gazette, Harrisburg Patriot News, The Huffington Post, Philadelphia Inquirer, The Pocono Record, The Morning Call, Lancaster News, Brain Child Magazine, Pocono Business Journal, The Daily Item, the Standard Speaker, Milwaukee Journal Sentinel, Women e-News and other newspapers and numerous blogs.

International Newspaper Coverage: The Guardian/UK

Documentary Film:

My family and I appear in the documentary film "The Motherhood Manifesto" based on the book of the same name which aired on local PBS stations around the country on Mother's Day 2007.

Radio Interviews: NPR, BBC, KDKA (Pittsburgh, PA)

Personal: Single Mother of son and daughter, two grandchildren.

Maternal Profiling Is Alive and Well in Pennsylvania

Source: <http://www.momsrising.org/blog/maternal-profiling-is-alive-and-well-in-pennsylvania>

October 22, 2013

This blog post originally appeared in the Huffington Post.

After eight years of friendship and mutual support on the phone and online, I finally met Kiki Peppard last month! Kiki's experiences moving to Pennsylvania as a working single mom of two children is the first story in *The Motherhood Manifesto*. Her story details her experiences going to interview for jobs and having potential employers ask if she was married and if she had kids. As soon as prospective employers heard she wasn't married and had kids, they were not interested in learning any more about her. They didn't care about how excellent her resume and references were. Kiki struggled to land a job for many months and was appalled when she ended up having to rely on public assistance to feed her kids. She finally landed a job when her future employer did not ask about her family status!

Kiki's story is first in the book because it is a concrete example of how glaring gaps in our support systems for parents and cultural norms have resulted in profound bias against mothers in hiring, wages, and advancement. It begins to explain why there are so many women and children living in poverty and so few women in leadership. Most people are shocked when they learn that with equal resumes and job experiences, moms experience tremendous hiring and wage discrimination, while dads get a wage bump. People are also shocked that there are only three countries in the world that have no maternity leave for new mothers: Papua New Guinea, Swaziland and The United States of America. What?! And did you know that of the last six Supreme Court Justice nominees – three men and three women – all the men had children and none of the women did? This is not an accident. The stories I can tell!

MomsRising.org has been working since 2006 to end the bias against mothers in the workplace, also known as "maternal profiling."

Kiki is a hero in this fight. For more than 18 years she has worked to pass a law protecting moms in Pennsylvania from the personal questions she was asked in job interviews.

MomsRising has been at her side. This law has never passed. When I asked her about progress last week this was her reply:

"Over a year ago I moved to another county in Pennsylvania and naturally have a new rep and senator. I contacted my new member of the House of Representatives several times seeking his support and asking him to introduce new legislation (again) to prohibit employers from asking job candidates about their marital/familial status during job interviews. After several attempts to contact him, he finally called me back and said not only would he NEVER EVER introduce such legislation, if he heard that someone else did, he would devote all of his time and efforts to see to it that the bill failed. He said he would never endorse any laws that would interfere in how businesses are run or take away any rights of a business owner. Thank you, Mr. Republican Representative, I said to myself. At the end of that call, I finally threw in the towel after nearly 19 years of trying to get the legislation passed here in PA prohibiting legal discrimination in job interviews. I packed up my notes, books, and articles in a box for my granddaughter in case she would like to take up the cause when she grows up. She is now five. Maybe in 15 years Pennsylvania legislators will be ready to listen to her and to face the fact that women are people, too, entitled to equal working rights."

Recently, as Innovator in Residence at Millersville University in Pennsylvania, I introduced Kiki and told her story at my keynote address. It is my hope that others in Pennsylvania will claim Kiki's box about efforts to pass this law before Kiki's granddaughter is of age! There is hope. One professor at Millersville told me that she shows The Motherhood Manifesto documentary to her class every semester. She says the film moves her students and resonates across partisan lines. Which pleases me no end. Perhaps her students can pick up where Kiki leaves off. Someone needs to. It is time to end maternal profiling! It shouldn't be this hard!

Women end up on the spot when employers ask about plans for motherhood

Friday, May 15, 2009

By Steve Twedt, Pittsburgh Post-Gazette



Stacy Innerst/Post-Gazette

A Pennsylvania woman is hoping the White House will help make job interviews more family friendly.

After 15 years of futilely trying to convince state legislators to prohibit employers from asking job applicants if they're married or have children, Kiki Peppard, of Monroe County, is seeking intervention from the newly formed White House Council on Women and Girls.

Calling such queries "legal discrimination," she has asked the council to have President Barack Obama press for a federal law that would prohibit questions about an applicant's marital or familial status during job interviews. A staff member has promised to bring it to the attention of Valerie Jarrett, who chairs the council.

"Employers are using that information to eliminate qualified female candidates from positions just because they either are a mother or have the potential to become a mother," Ms. Peppard told them.

She believes that's what happened to her. After she and her two children moved to eastern Pennsylvania in 1994, she lined up 19 interviews for secretarial and bookkeeping jobs.

But once prospective employers learned she was a single mother of two -- and every single employer asked, she says -- the interviews abruptly ended.

"We have to accept the fact that people do reproduce. Why won't Pennsylvania embrace families?" asked Ms. Peppard, who is currently unemployed but planning to return to school.

For decades, employers have been told they can't ask applicants their age or discriminate on the basis of race, religion, ancestry or national origin.

Nor can an employer discriminate against a woman for being pregnant. A Bethel Park woman won a \$1.8 million judgment in November after she was fired while on maternity leave. Yet that employer is free to ask if she plans to have more children.

Even if the question sounds like small talk, Ms. Peppard says the answer may mean the difference between getting or not getting a job.

Angered at what she considers a violation of her privacy and vowing to ensure that her then-11-year-old daughter Carissa would not face the same line of questioning, Ms. Peppard set out to get the law changed.

It took six years of letter writing before she could get a legislator to sponsor a bill. She has found important allies in Harrisburg, primarily Sen. Jane Orie, R-McCandless, and Rep. Craig Dally, R-Northampton, who reintroduce bills every legislative session that would prevent employers from asking such questions.

Every time, the bills have died in committee.

"I've been trying to get this changed for the last 15 years," Ms. Peppard said. "We cannot get these bills out of committee and it's very, very frustrating. I don't understand it."

She's been told that key legislators don't believe profiling is much of a problem.

The Pennsylvania Chamber of Business and Industry has not taken an official position on the legislation, although spokeswoman Lesley Smith noted legal reform was one of the group's top legislative priorities. With this bill, she said, "A concern would be simply that it creates another cause of action."

The bills are there again this year, in the Senate Labor and Industry Committee and the House State Government Committee, but there's no sign the bills have any greater chance of passage this time.

Currently, 22 states prohibit asking if a job applicant is married or has children. "I think everyone can agree there is no reason to ask that question," said Lisa Matukaitis, a Harrisburg attorney specializing in family law.

Ms. Matukaitis herself was a plaintiff in a case against a Harrisburg-based nonprofit group over a family medical leave dispute following the 2004 birth of her son. The lawsuit was settled out of court.

Other groups have lined up to support Ms. Peppard's cause, including the 9to5 National Association of Working Women, the Pennsylvania Human Relations Commission, the Pennsylvania Commission for Women, the Women's Law Project in Philadelphia and the state chapter of the National Association of Colleges and Employers.

Questions about family or marital status "are not relevant to whether or not you're qualified for the job, and therefore it should not be part of the job interview," said Shannon Powers, of the state Human Relations Commission.

The commission recommends that employers not ask those questions, she added, but under current law applicants have no recourse if they do. "From our viewpoint, it is an indefensible position."

Ms. Peppard also has a strong local advocate in blogger and volunteer for the momsrising.org Web site, Cooper Munroe, of Fox Chapel, whom Ms. Peppard credits for coining the phrase "maternal profiling." In 2007, a New York Times article listed "maternal profiling" as one of the buzzword terms of the year.

So far, though, giving it a name hasn't translated into making it a law.

Ms. Peppard's daughter Carissa is now 26 and working as an occupational therapist, "but I'm no closer today than I was in 1994" in getting the law changed, said her mother.

"Now my focus has shifted to my granddaughter."

Steve Twedt can be reached at stwedt@post-gazette.com or 412-263-1963.

First published on May 15, 2009 at 12:00 am

Bill would protect working women

By KRISTIN BAVER

Press Enterprise Writer

Attorney Lisa Matukaitis endured questions about her marital status and parenting duties during 20 interviews in a year-long job search.

She was so fed up with the discrimination that "it got to the point where I took my wedding ring off," she said.

For now, that kind of probing is still legal in Pennsylvania.

A bill in the state Senate Labor and Industry Committee would change that by barring employers from discriminating based on family and care-giving responsibilities.

But it's unlikely to come up for a vote without more evidence of a problem, according to Sen. John Gordner, chairman of that committee. "We'd want some documented situation where there have been problems that would be addressed by this bill," Gordner said.

Employers use "maternal profiling" to screen against women who have children or may become mothers. It can also be used by employers when considering promotions, says Matukaitis, who specializes in employment and civil rights cases.

It can be used to hold back men in the workforce, although "it's usually a woman who has those responsibilities," she added.

A state law would protect residents from enduring questions about their marriage and duties to care for children or other family members, she believes.

"This stuff was supposed to end a long time ago and it didn't," Matukaitis said. "I think it's shocking to people that it's still going on."

'Maternal wall'

The Elysburg-born Matukaitis, a 1989 Southern Columbia graduate, worked full time, including a job as a court clerk, while attending the Western New England College School of Law and graduated at the top of her class, she says.



Click on image to download pdf

While on family leave three years ago to care for her second child, she lost her job at the state Coalition Against Domestic Violence. She filed a lawsuit against the company.

Her experience and schooling should have set her up for an attorney position with a large law firm making at least \$100,000, she says.

"I heard about the glass ceiling," she said. "I didn't think I would be up against this maternal wall."

She was jobless for more than a year, eventually taking a lower-paying specialist job for a third of an attorney's wage.

That was the only company out of nearly two dozen that didn't ask about her family life, she says.

She has since started her own Harrisburg-based firm.

Wanted: Sterile orphans

Interview questions about a spouse or children can be used only to discriminate against a candidate, said Kiki Peppard, a volunteer who has spent 14 years working with groups like 9 to 5: The National Association of Working Women, and MomsRising.org, to get a law barring maternal profiling.

"It's like they're looking for a robot, not a human being," she said of companies that still use those questions to judge job candidates.

Employers hoping to deter workers with family concerns might as well advertise "Only sterile orphans apply," Peppard said.

Some companies have admitted that they didn't like hiring mothers, she said, going so far as to ask women when they were planning to get pregnant.

"I don't know of any man who was asked during an interview when he planned to impregnate someone," Peppard said.

Single suffering

Employers trying to dodge insurance costs and extended absences for child rearing have asked female job candidates if they were pregnant or planning on having any more children, Matukaitis said.

Without a law to expressly prohibit maternal profiling, single mothers suffer the most, she added.

"They're seen as the person who is going to leave their job continuously to pick their child up from daycare," she said, and as a group they are stereotyped more than married working women.

But being the sole supporter means those single parents will work harder to keep a job. "They need the job for their very survival," Matukaitis says.

About 70 percent of all mothers with kids under the age of 18 work, she added.

Few bills pass

In the last four or five years, only two or three people from Gordner's district, which includes Columbia, Montour and surrounding counties, have contacted him with concerns about maternal profiling, he says.

The office has gotten hundreds of phone calls from people outside state lines in that time, the result of a national advocacy effort, he says. Twenty-two states in the country already have laws against discrimination based on family and marriage status.

In October, Gordner met with several statewide advocates to discuss maternal profiling, he said.

At the time, he had asked them to document four or five specific cases. "They've never gotten back to us," he said. "I have to see if there's support."

Only about 5 percent, or 20 of some 3,000-4,000 bills introduced in the Senate during each session, actually become law, Gordner said. The rest die in committee when the session ends, and will have to be reintroduced.

Lawmakers try to pass bills that affect many residents across the state and have dozens of examples, he added. That interest helps pool support among senators and advocates.

For now, "we don't have any intention of bringing it up," Gordner said.

Holding bill 'hostage'

Peppard blames Gordner, not a lack of support, for keeping the bill in committee.

"They hold these bills hostage," she said, charging that Gordner is personally holding it up for the third year in a row.

The Monroe County woman has made several trips to Harrisburg to hand-deliver petitions and try to meet with Gordner, with no luck.

Rep. Babette Josephs, D-Philadelphia, the chair of the State Government Committee in the House, pledged to get things moving on a House bill during an October rally, Peppard added, but has yet to make a move.

"This is a living issue. And these lawmakers are affecting our ability to make a living," Peppard said.

Josephs said she's still interested in acting on the companion bill, but has stalled the process because of a proposed Constitutional amendment that would define marriage.

But that amendment could affect people covered for marital status discrimination by limiting it to marriages between a man and a woman, she added.

"I do want to push it through," she said of the maternal-profiling bill. "I think it's definitely needed."

Gordner 'misinformed'

Gordner says he was told by an experienced civil rights lawyer that the federal Civil Rights Act — which prohibits discrimination based on race, color, religion, sex, or national origin — already addresses the issues covered by the bill. Case law has also addressed the matter, he said.

But proponents of a new state law disagree.

"A lot of people are misinformed," said Tiffany Strickler, spokeswoman for the state Commission for Women. "They think this is covered under sexual discrimination or federal law, but it's not."

Matukaitis agrees.

The law does not keep workers from being singled out for their marital or family status, although the state Human Relations Commission does recommend against asking about marital status and children, Matukaitis said.

Lawyers can argue that some questions fall under sex discrimination, which is protected by federal law. But winning a case means a woman would have to prove that a man interviewed for the job and didn't get asked the same questions.

Some situations may implicate the Americans with Disabilities Act if a parent needs time off to care for a disabled child or the Family and Medical Leave Act for certain violations, she said.

Kristin Bayer can be reached at 387-1234 ext. 1310 or kristin.b@pressenterprise.net.



Maternal profiling: Working moms still struggle for equal rights in workplace

DAN BERRETT
Pocono Record Writer
May 13, 2007



Kiki Peppard perches on a windowsill at East Stroudsburg University. DAVID KIDWELL/Pocono Record

EAST STROUDSBURG — Kiki Peppard was being interviewed for a bookkeeping job in Mount Pocono when she was asked the same two questions she had heard at the start of her previous 18 job interviews in the area.

"Are you married?" was the first question.

She was taken aback at first, but eventually answered. No, she was divorced.

"Do you have children?" was the second.

Typically, when she answered yes, the interviews would be over, she remembered recently. But on this day, about 13 years ago, the interview kept grinding on — painfully so.

There were no questions about her experience, past job performance, or bookkeeping, computer and typing skills. But the interviewer did want to know how Peppard had been feeding her children during the gap in her employment.

She had moved from Long Island to Effort with her two young children after her marriage ended and her mother died unexpectedly. While she looked for work, she had resorted to food stamps and to using the local food pantry.

"I don't hire your kind of people," the interviewer told her.

"It's people like you who make people like me," she answered.

She didn't get the job.

Peppard, 52, has told her story scores of times over the past decade. In that time, she has cultivated a minor sort of celebrity as an unwitting activist. She has been featured in books ("The Motherhood Manifesto"), a documentary (of the same name) and in national news stories. Activists refer to what Peppard went through as "maternal profiling."

"It still amazes me that in the year 2007 these types of questions are being asked in an interview situation," said Laura Treaster, communications director for the Pennsylvania Human Relations Commission. "They simply should not be."

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While Peppard's fortunes eventually turned — she found work at the Stroudsburg Area School District and later at East Stroudsburg University, neither of which asked about her marital or family status — her anger has not dimmed.

Her target is the state's 51-year-old human rights law, which was last amended in 1991. Peppard has called on local and state legislators to change that law to conform to those of many of Pennsylvania's neighbors. New York, New Jersey and Maryland have laws protecting people from discrimination on the basis of marital status.

So do 17 other states and Washington, D.C., and Puerto Rico. While this tally represents a minority of states, the people living in them account for the majority of the American population, at 52 percent.

And they encompass both so-called red and blue states, sometimes surprisingly. Traditionally conservative states like Nebraska and North Dakota protect marital status. Liberal Massachusetts does not.

In Pennsylvania, legislators have been proposing bills in the state assembly for years, only to see them die in committee, never advancing to the floor for a vote.

"To be sitting here 13 years later and be no closer to getting the law passed, it's infuriating and frustrating," Peppard said during her lunch hour in her cubicle at ESU, where she works as a secretary. "I started doing this so my daughter wouldn't have to be humiliated in job interviews the way I was."

TODAY, BIPARTISAN LEGISLATION is sitting in committees of both chambers, waiting to move forward. Most local officials in both the House and Senate support them.

In the House, the bill is in the hands of Rep. Babette Josephs, D-182, chair of the committee on state government. "I think it is absolutely necessary," Josephs said of the bill. "I have no doubt of that."

Her main qualm was not whether to move the bill forward, but how.

"When one puts out an amendment to the human relations act on the floor of the House, it is likely to attract all kinds of mischief," she said, citing efforts to add so-called poison pills to make it easier to discriminate on the basis of sexual orientation.

Josephs said she hoped to move the bill to the floor by the end of the legislative session, after securing promises from her peers that no one would try to add provisions designed to kill the bill.

The Senate's committee on labor and industry, which controls the fate of the bill in that chamber, has been less receptive. Sen. John Gordner, R-27, is chair of that committee, and he did not respond to requests for an interview. But he told National Public Radio last year that he was not sure his constituents really cared about the issue. "We've probably logged in maybe about 100 phone calls, e-mails from people outside the state," he said.

The Pennsylvania Human Relations Commission admits that it cannot reliably keep track of complaints because, legally, those targeted do not yet exist as a category of people that merit protection. "Until it's a specific protected class," Treaster said, "we don't have jurisdiction."

The bills have also been opposed in the past by the state's Chamber of Business and Industry, which also did not respond to calls seeking comment. A representative told NPR last year that the business lobby opposed the law because it might open the door to discrimination lawsuits, and make it harder for employers to legitimately fire workers.

"California and New York haven't gone out of business," Peppard said, referring to two states with the employment protections. "What's the fear in Pennsylvania?"

IN PART, THE problem may grow from a deeply ingrained set of assumptions, one recent study suggests. Shelley Correll, a sociologist at Cornell University, conducted two studies, as recounted in the American Journal of Sociology. In an experiment, participants evaluated a pair of equally qualified job candidates of the same sex; one had children, the other did not.

The result: mothers were penalized on a host of measures, including their perceived competence and recommended starting salary. In fact, the mother in each pair of candidates was 100 percent less likely to be hired, according to Cornell. Men, on the other hand, sometimes benefited from being a parent.

National data suggest that basing an employment decision on marital status is unpredictable at best. The Bureau of Labor Statistics regularly commissions its American Time Use Survey, in which a sampling of people record exactly how they spend their time in a given day.

In 2005, data show that while women typically work fewer hours than men, married and unmarried women spent a nearly identical amount of time on the job — the difference was less than four minutes each day.

And women taking care of children 17 and younger worked the same number of hours per day, on average, as women with grown children or none at all. Women with minor children also spent twice as much time as their husbands taking care of their children.

To women like Peppard, such figures are evidence of the juggling act that working mothers, two-thirds of whom are in the national workforce, continually pull off. For her, it's time for policy to adjust to reality.

"We have to embrace the family," she said, "not punish the family."

Web Link to this article:

<http://www.pocconorecord.com/apps/pbcs.dll/article?AID=/20070513/NEWS/705130338/-1/NEWSLETTER01>

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What do our local officials have to say?

Should employers be allowed to ask about a job applicant's marital or familial status? House and Senate bills 280 would make it illegal.

Sen. Lisa Boscola, D-18

Status: Not a sponsor

Position: Did not respond to requests for comment. She is co-sponsor of another bill that would support the U.S. Senate in ratifying the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.

Sen. Pat Browne, R-16

Status: Not a sponsor

Position: Did not respond to requests for comment.

Sen. Robert Mellow, D-22

Status: Co-sponsor of Senate bill

Position: "Penalizing a job candidate who is or plans to become a parent is just plain wrong. We should be celebrating and encouraging any parent who is devoted to their children — not taking arbitrary actions that impede their ability to support their family."

Rep. John Siptroth, D-189

Status: Co-sponsor of House bill

Position: "I don't think that that should be a part of the interview process, nor do I think it should be held over the head of the individual who's applying. What's wrong with the whole thing is that individuals who have children may be denied the job because they have children at home, not based on job performance and attendance."

Rep. Mario Scavello, R-176

Status: Co-sponsor of House bill

Position: "If a single parent goes into a job interview and that question is asked, it can affect and has affected not getting that job. That can't be a reason. Single parents need to be able to find work and not be discriminated against."

Rep. Mike Carroll, D-118

Status: Took office too late to co-sponsor the bill, but said he would have if he could. Is pushing for the bill to get out of State Government Committee.

Position: "I think Kiki has it exactly right. Marital status shouldn't be a consideration when people are being considered for anything. I think it's as simple as that."

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April 11, 2014

Executive Director JoAnn Edwards
Chairman Gerry Robinson
PA Human Relations Commission
333 Market Street – 8th Floor
Harrisburg, PA 17126 -0333

Dear Executive Director Edwards & Chairman Robinson:

In 1955 when the Pennsylvania Human Relations Act was created there were no female Supreme Court justices, astronauts, secretary of the state or attorney general. The minimum hourly rate was \$1.00. Needless it to say, a lot has changed since then.

While the Pennsylvania Human Relations Act writers back in 1955 meant well, today that law with regard to safe guarding individuals from employment related discrimination based on marital/familial status presently falls quite short of protecting the needs of all Pennsylvanians – especially women. I found that out in 1994 when I moved here and began applying for jobs to support my family. When each employer who interviewed me voiced more concerns about my marital status and whether or not I had children, rather than my skills, education, and experience, this raised a red flag of concern. Then when I was told flat out that employers don't hire single women with children, the first words in my mind were discrimination and illegal. An attorney said to me during an interview that these invasive questions were in fact legal and permissible. That's when I began my quest to get the law changed.

In 2014, employers are still permitted to ask personally prying invasive questions about a women's marital, familial, and reproductive status and ability to conceive (yes, women are even asked during job interviews when they plan to become pregnant). I call this humiliating, degrading, insulting, and disgraceful yet the letter of the law calls it legal.

It has been documented that employers use this information to disqualify women from positions they are qualified to fill just because they are a mother or have the potential to become one. I am not a lone victim by any means. For the last two decades I've been trying to get the Human Relations Act amended to prohibit employers from asking job candidates about their marital/familial status. I gratefully acknowledge that in the past the Pennsylvania Human Relations Commission has supported previous bills that would accomplish this task.

Two bills have just been introduced: SB1295 and HB1984. While I cannot appear before you in person today at this commission meeting, I humbly ask you to consider

supporting this legislation. Please accept this letter and plea to do so. The victims of this antiquated law are women and particularly, single women with children.

The question remains, why haven't previous bills passed? Why is this taking so long? In Philadelphia, protection against employment discrimination based on marital and familial status has already passed their city ordinances (bills 970750 (1998) and 110050 (2011)). I look forward to the day that all residents of this Commonwealth be protected as well.

Isn't it time that we give women credit and credibility for their exemplary work experiences, talents, education, character, determination, and survival skills? It seems that without a husband and a stable relationship, women are still considered worthless in the workplace. This archaic attitude needs to stop. This needs to stop this year.

Some legislators have expressed great fear that passage of this legislation will dictate what businesses can or cannot do. I believe businesses have the right to choose whomever they want to work for them. That is not what this legislation is all about. I am only asking that employers NOT ask probing, demeaning, personally invasive questions regarding a person's marital and familial status during job interviews. It is rarely if ever done to men – why is it still permissible and legal to do this to women?

I am pleased and proud to tell you that great organizations such as 9 to 5, National Association of Working Women, MomsRising.org, PA National Organization for Women (NOW) and the Business and Professional Women (BPW) groups among others have all supported this legislation. I hope you will join us and support it as well.

I haven't forgotten after all these years the many women I have met and I remember their atrocious interview horror stories. Women have denied the existence of their children – just to get a job. Single mothers are paid less than their married co-workers – just because they don't have a husband. Young newlywed women denied a job because they may get pregnant someday.

I don't know how many generations it will take to change the archaic attitudes and profiling that people have towards women (especially mothers) in the workplace. But I do know we have the power and the ability to change the out-dated laws now.

Please support the wonderful and courageous women and mothers of Pennsylvania by giving us a chance to interview for a job with the dignity and respect that we deserve. Please support HB1984 and SB1295.

Thank you,

Kiki Peppard

Printer Friendly Version Of American Sociological Association: Lowest-Paid Women Suffer Most From Motherhood Penalty

http://www.asanet.org/press/motherhood_penalty.cfm

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Sociologists Find Lowest-Paid Women Suffer Most From Motherhood Penalty

WASHINGTON, D.C., Oct. 5, 2010 – In a study of earnings inequality among white women, researchers at the University of Massachusetts Amherst find that having children reduces women’s earnings, even among workers with comparable qualifications, experience, work hours and jobs. While women at all income levels suffer negative earnings consequences from having children, the lowest-paid women lose the most from motherhood. This earnings penalty ranges from 15 percent per child among low-wage workers to about 4 percent among the highly paid. The findings are published in the October 2010 issue of the *American Sociological Review*.

The research was conducted by Michelle J. Budig, a professor of sociology at UMass Amherst and Melissa J. Hodges, a graduate student in sociology at the university. It focuses on the motherhood wage penalty - meaning how much less women with more children earn relative to similar women with no children, or with fewer children.

Budig says although there hasn’t been a lot of scientific study of the work-family issues involved in this wage gap, ordinary working women deal with it on a daily basis and are acutely aware of it.

Budig and Hodges find low-paid women lose proportionately the most earnings for having children, though almost all earners experience significant motherhood penalties. They also find that different processes create the motherhood penalty at different earnings levels. That mothers work less and may accept lower earnings for more family-friendly jobs partially explains the penalty among low-wage workers. Also, that mothers have less experience due to interruptions for childbearing, explains some of the penalty among the highly paid. But a significant motherhood penalty persists even in estimates that account for these differences, the researchers say.

The authors show that estimates of “average” motherhood penalties obscure the compounded disadvantage low-paid mothers face, as well as differences in the processes that produce the penalty. For example, low-wage workers, who are less likely to have leave benefits, may be more likely to quit their jobs when child care demands escalate, thus losing wages through high job turnover. In contrast, high-paid workers with greater access to employer benefits may be better able to maintain connections to employers during childbearing.

And it’s only at the very highest level of incomes for married women that the penalty disappears or even reverts to a benefit, the researchers say.

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"Based on our findings, the typical full-time female worker earned \$1,100 less per child in 2009. This wage penalty for motherhood increases with each additional child and doesn't go away as kids get older. In fact, the penalty grows in size as children age and is a permanent penalty," Budig says. "The motherhood penalty is strongly linked to the gender pay gap, which hasn't budged in size since the late 1990s. Policies aimed at reducing the motherhood penalty should have significant effects on the overall pay difference between men and women with equivalent qualifications and who work in similar jobs."

Using data from the 1979 to 2004 waves of the National Longitudinal Study of Youth from the Bureau of Labor Statistics at the U.S. Department of Labor, researchers tested whether the size of the motherhood penalty, and the processes creating it, differ among white women who are low, middle, and high earners.

For the study, Budig says their definition of top earning women, the upper 10 percent, encompasses those who earn about \$60,000 or more in annual salary.

In order to mitigate the effects of the motherhood penalty, Budig and Hodges recommend several policy changes. These include expansion of the Earned Income Tax Credit for low-income families, along with expanded benefits for child care and early childhood education.

The research article described above is available by request for members of the media. For a copy, contact Daniel Fowler, ASA's Media Relations and Public Affairs Officer, at (202) 527-7885 or pubinfo@asanet.org.

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About the American Sociological Association and the *American Sociological Review*

The American Sociological Association (www.asanet.org), founded in 1905, is a non-profit membership association dedicated to serving sociologists in their work, advancing sociology as a science and profession, and promoting the contributions to and use of sociology by society. The *American Sociological Review* is the ASA's flagship journal.

The research article described above is available by request for members of the media. For a copy, contact Daniel Fowler, ASA's Media Relations and Public Affairs Officer, at (202) 527-7885 or pubinfo@asanet.org.

For more information about the study, members of the media can also contact study co-author Michelle J. Budig at (413) 545-5972 or budig@soc.umass.edu, or Patrick J. Callahan, Associate News Editor at UMass Amherst, at (413) 545-0444 or pjcall@admin.umass.edu.

POLICY BRIEFING SERIES

WORK-FAMILY INFORMATION FOR STATE POLICY LEADERS

REPORTS FROM THE STATES

IN THIS ISSUE:

OPPORTUNITIES FOR POLICY LEADERSHIP ON MARITAL STATUS DISCRIMINATION

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COMMENTS BY: PENNSYLVANIA STATE REPRESENTATIVE CRAIG DALLY

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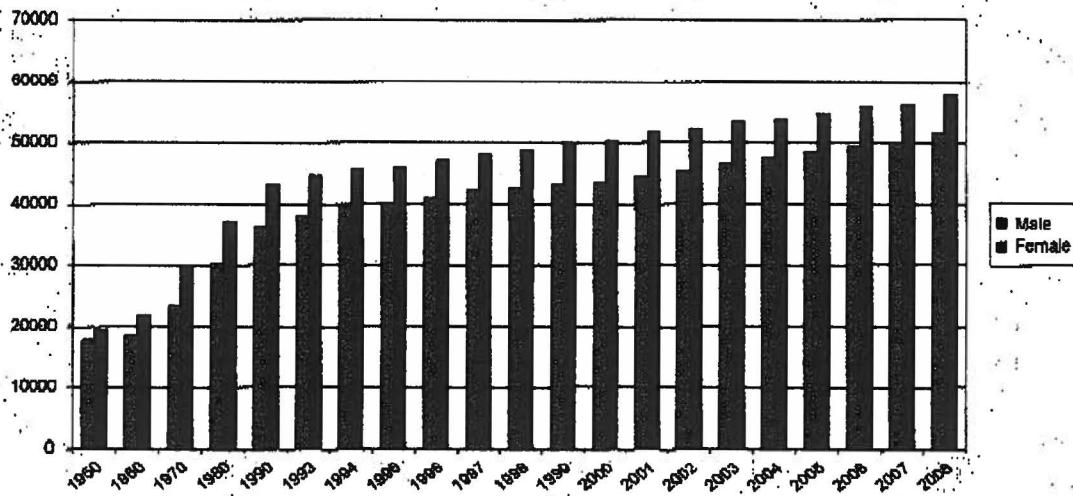
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OPPORTUNITIES FOR POLICY LEADERSHIP ON MARITAL STATUS DISCRIMINATION

As workplaces become more "family-friendly," unmarried employees may question the fairness of these policies.

American households are changing. According to the U.S. Census Bureau, 95.9 million Americans 18 years of age and older were unmarried in 2008, up from 37.5 million in 1970.¹ Unmarried employees make up over 40% of the full-time workforce.² In addition, the percentage of families with children under age 18 at home has declined.³ Despite these demographic shifts, research and anecdotal evidence indicate that most work-family initiatives are directed toward the needs of married employees with children,⁴ resulting in a "family-friendly" backlash among unmarried workers, especially those without children at home.

NUMBER OF UNMARRIED AMERICANS BY SEX 1950-2008



SOURCE: U.S. CENSUS BUREAU (2009)

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WHAT IS MARITAL STATUS DISCRIMINATION?

Marital status discrimination occurs when a person or persons are granted or denied certain rights based on their marital status. Marital status discrimination is not restricted to a certain gender or sexual orientation, although it may impact certain populations more than others. Several cases have challenged policies that appear to favor married employees. For example, in *Russ v. City of Troy* (2001), the plaintiff established a valid claim for discrimination based on the fact that he was denied a promotion because he was unmarried. More recently, in *Wojan v. Alcon Laboratories* (2008), Wojan, a single mother, brought suit against her employer after she was fired for poor performance. Wojan states that the company failed to modify her quota requirements during her maternity leave and that her employer made inappropriate comments about her marital status after her return. Alcon Laboratories' motion for summary judgment was denied, and as of December 2009, the case was still pending.

"COMMON SENSE DICTATES THAT HIRING DECISIONS SHOULD BE MADE ON A PERSON'S QUALIFICATIONS AND WORK HISTORY, NOT ON A PERSON'S MARITAL STATUS OR WHETHER OR NOT SHE OR HE IS A SINGLE PARENT. NO ONE, MUCH LESS SINGLE MOTHERS TRYING TO MAKE LIVES BETTER FOR THEIR FAMILIES, SHOULD BE SUBJECT TO SUCH HARASSMENT."

— PENNSYLVANIA STATE REPRESENTATIVE CRAIG DALLY (R) ON HB 280



HOW DOES MARITAL STATUS DISCRIMINATION AFFECT UNMARRIED CONSTITUENTS IN THE WORKPLACE?

Several findings suggest that employees may be treated differently based on their marital status:

- Married men are paid more and are offered promotions more often than single men, even when controlling for work performance and seniority.⁵
- Employers are often able to subsidize health benefits for spouses and sometimes domestic partners, while offering no additional compensation for unmarried or single employees.⁵
- Work-family policies are often written to address married employees with children.⁴ For example, dependent care allowances and parental leave are directed specifically to employees with children and are often not available to low-income single mothers.⁶ Flexible work schedules are more often available to employees from dual-earner families with children, as well.^{2,7}
- Unmarried workers and single workers without children are expected to travel more for work; they also feel that they have to work at times that are not expected for working parents.² In addition, parents are more likely to get time off from work than nonparents.²

HOW DOES MARITAL STATUS DISCRIMINATION AFFECT BUSINESSES IN YOUR STATE?

Emerging research on marital status and the work environment of singles shows that providing work-life programs to a wider array of employees can be beneficial to employers by:

- Reducing turnover, increasing job satisfaction and productivity, and attracting a more diverse applicant pool.²
- Decreasing benefit costs through flexible benefits (i.e., benefits that are tailored to each employee's need). Offering flexible benefits can save businesses money because employees are offered a defined contribution (i.e., a set expenditure to be spent on benefits) rather than a defined benefit (benefit packages are guaranteed, regardless of cost).⁸
- Increasing employees' perception of fairness and thus preventing discrimination lawsuits based on marital status.⁸

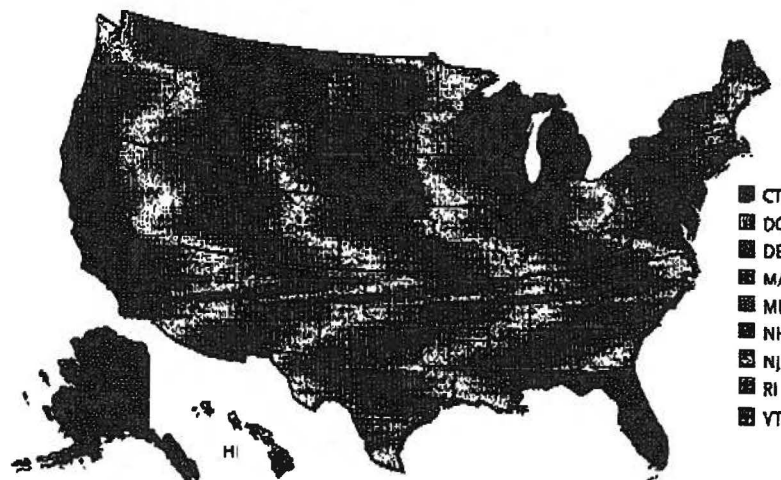
HOW HAVE STATES RESPONDED TO THIS ISSUE?

Prohibiting marital status discrimination in employment: Under federal law, only the Civil Service Reform Act of 1978 protects federal employees from discrimination based on marital status. The Equal Employment Opportunity Act does not. However, 21 states (AK, CA, CT, DE, FL, HI, IL, IN, MD, MI, MN, MT, ND, NE, NH, NJ, NY, OR, VA, WA, WI) and the District of Columbia offer protection against discrimination in employment based on marital status.

Of these 21 states:

- Six states make exceptions to marital status discrimination in regard to benefit allocation (AK, CA, DE, MD, MI, MT)
- Two states protect teachers against marital status discrimination (CT, IN)
- Five states make exceptions to marital status discrimination in employment when anti-nepotism policies exist (CA, FL, MT, NE, WI)

■ States that have passed laws addressing marital status discrimination.



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WHAT ELSE CAN BE DONE?

To help workers manage work-life responsibilities, state legislators may want to consider the impact of legislation on both married and unmarried constituents. In addition, legislators can create policies that are more inclusive of workers from all types of households. Policies to consider may include:

- * Extending dependent health care coverage not only to domestic partners, but also to other extended family members or household occupants. Currently, 13 states have domestic partnership, civil union, or same-sex marriage statutes (CA, CT, HI, IA, MA, ME, NH, NJ, NV, OR, VT, WA, WI). However, these statutes vary in coverage and do not always include heterosexual couples. (For an example of a statute that is inclusive of other household occupants, see *Salt Lake City's adult designee benefit ordinance, Section 2.52.100 – Benefit for Employee Dependents*, or *Rhode Island's proposed legislation, SB 135*.)⁹
- * Making leave benefits and sick days more accessible to single workers by extending these benefits to low-wage workers, by allowing workers to take leave to care for extended family members or friends or by allowing leave for other personal concerns such as taking classes or visiting the doctor. (For example, the U.S. Office of Personnel Management's definition of "family" under sick leave includes "any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.")⁹
- * Expanding the Earned Income Tax Credit for single workers to offset rising payroll taxes for low-income single workers.¹⁰
- * Offering a flexible benefit system to state employees in which all employees are provided an equal number of credits to purchase benefits tailored to their needs (an example is *San Diego's Flexible Benefit Plan – Section 5.1.2 – Compensation Ordinance*).
- * Encouraging work arrangements such as flexible work schedules and telework for more employees (see the *Sloan Network's policy briefs on flexible work and telework* at http://wfnetwork.bc.edu/template.php?name=pubs_pbs).
- * Providing more employee protections against marital status discrimination (for example, *Pennsylvania's HB 280, introduced in 2009*).

WHERE CAN I GET MORE INFORMATION?

The following resources about marital status discrimination might be of interest.

Institute for the Study of Social Change (ISSC): Singles Studies: <http://issc.berkeley.edu/singlesstudies>

- * This website promotes the work of scholars who are integrating the study of singles into their research and teaching. It is also offered as a resource to anyone interested in learning more about scholarship on singles.

Unmarried America: <http://www.unmarriedamerica.org>

- * Unmarried America is a nonprofit information service focusing on the interests and concerns of America's 101 million unmarried adults—as employees, consumers, taxpayers, and voters—whether they live alone, with a roommate, or with family members.

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The Sloan Work and Family Research Network can provide you with additional research-based information about working families. VISIT WWW.SC.EDU/WFNETWORK. EMAIL WFNETWORK@BC.EDU, OR CALL 617.552.1708.

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New Study Shows That Childless Women Succeed More Than Mothers in the Workplace

A New Study Claims That Childless Women Are More Successful In the Workplace Than Women With Children

By KELLY HAGAN

Aug. 22, 2010—

Supreme Court Justice Sonia Sotomayor, Homeland Security Secretary Janet Napolitano and former Secretary of State Condoleezza Rice -- what do these women have in common?

Despite their widely varying political and personal experiences, all three of these powerful women do not have children, and some experts think this fact may have contributed directly to their successes.

A new study from the University of Chicago claims that childless women become more successful in the workplace than women with children.

Men and women have nearly identical incomes and working hours once graduating from college, but 15 years later the men's incomes soar to 75 percent more than incomes earned by women, according to the study.

The only exception to the rule is the small group of women who have never had children and whose pay equals that of their male peers.

A Double Standard?

Kiki Peppard spent a decade working as a successful bookkeeper before taking leave to spend more time with her children. When she decided to re-enter the workforce following a divorce, she found herself as a mother on the outside of the professional world.

"The very first question I was asked was, are you married? The second was do you have children?" she told "Good Morning America." "I went on 18 interviews and was asked if I was married or had kids, on the 19th one I finally wasn't asked about my kids or husband and got the job."

It's often assumed that women make less than men because they have more career disruptions such as pregnancy and raising children, but the pay disparity between men and women also pits mothers against non-mothers.

Mothers are 44 percent less likely to be hired than women without children, and they are paid \$11,000 less, according to a 2005 study from Cornell University.

That bias in this uncertain economy can be devastating to many families and can mean the difference between paying monthly bills on time and going further into debt.

An Outdated Work Policy Structure

"The maternal wall is standing in the way of the glass ceiling," said Kristin Rowe-Finkbeiner, Executive Director of MomsRising.org in an interview with "Good Morning America." "Women without children make 90 cents to a man's dollar, while women with children make only 73 cents to a man's dollar. We have a huge problem with pay discrimination against mothers."

Rowe-Finkbeiner points out that women are now more than 50% of the labor force for the first time in history, yet many mothers are working on a full-time basis and are still unable to put food on the table. One in four children in the U.S. is experiencing food scarcity because of economic limitations, according to the USDA.

Solutions to these problems exist, she says, such as passing family friendly policies, like paid family leave, affordable child care, access to paid sick days and access to flexible work options.

"Those things actually help lower the wage gap between women and men. And they raise all boats. It's not just moms that need those policies in order to excel in their life, in the workplace and with their families," she says.

Rowe-Finkbeiner goes on to explain that professional women who leave the workforce should take important steps that will ease the process of reentering it. First, maintaining one's professional contacts and accreditations will ideally lead to smooth sailing when returning to the workforce.

Another helpful tactic is finding a mentor -- a professional who has navigated these seas before, and who can help with the transition back into the workplace when the time comes.

Finally, finding volunteer positions to add to a resume will show to employers that -- in addition to the difficult job of raising children --the working mother was productive.

Though this will help with the transition for working mothers, the U.S. lags behind most countries that have modernized their policies -- a whopping 177 other countries have adopted paid family leave.

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Are You a Victim of Maternal Profiling?

In Some States, Women Say They're Not Getting Jobs Just Because They're Moms

By GIGI STONE

Apr. 25, 2008—

Jeanne Bauman seems like an ideal job applicant. The Bethlehem, Pa., resident has 10 years of experience as an office manager at medical facilities and has glowing recommendation letters from previous employers.

During job interviews she says everything goes well and she very often makes it to the final round of the application process, but eventually the same questions always come up.

"They'll ask me, 'are you single, are you married, do you have children?'" Bauman says. And when she tells them she has three children, she says the interviewer's face drops and she gets the feeling the interview is pretty much over.

"It's very shocking to see the expressions on their face while I'm interviewing," Bauman says. "I never had trouble getting a job before I had children."

She says one employer told her it would simply cost too much in health insurance. So she went to meet with Lisa Matukaitis, an attorney in Harrisburg, Pa., who says cases like Bauman's can be difficult to prove, but she comes across them frequently.

"Every day, we hear more and more stories of women who are being denied access to employment solely because they have children," Matukaitis says.

In fact, according to a recent study in the American Journal of Sociology, women with children are half as likely to be called back by an employer than childless women with the same qualifications. It's a practice women's rights groups like "Moms Rising" refer to as "maternal profiling."

And here's what really makes women in states like Pennsylvania angry.

"Currently, under Pennsylvania law, it's not illegal for employers to ask whether or not you have children if you ask that question of all applicants," says Michael Hardiman, chief counsel for The Pennsylvania Human Relations Commission.

Basically, as long as employers can prove that they ask both men and women equally if they are married or have children, they are not doing anything illegal.

If they discriminate against women, that is, of course, against the law. The Pregnancy Discrimination Act of 1978 makes clear that discrimination on the basis of pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination under Title VII of the 1964 Civil Rights Act.

Against Motherhood? Moms Feel Job Bias

But many mothers say it should be against the law for employers to even ask the question of anyone during a job interview. Right now, 22 states have laws that specifically prohibit employers from asking applicants about their marital or familial status. There is a bill pending in the state legislature that, if passed, would make Pennsylvania the 23rd state. But the bill has been brought up repeatedly in the past without becoming law.

According to some attorneys who deal with workplace issues, men are rarely asked about having children. But some say that in an interview situation women must confront the simple fact that some employers still believe mothers, especially single mothers, can be less reliable on the job.

Jeanne Bauman hopes the Pennsylvania bill will make it this time. Like millions of women who thought they'd only have to face the glass ceiling, now she's up against the maternal wall.

Do you believe you have encountered discrimination at work because you are pregnant, a parent or a caregiver? If so, The Center for WorkLife Law at the University of California, Hastings College of the Law, runs a free hotline for employees who may be facing employment discrimination because of their family responsibilities. The Hotline can be reached by sending an email to hotline@worklifelaw.org, or by calling 1-800-981-9495 or 202-680-8964.

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ADDRESSING FAMILY RESPONSIBILITIES DISCRIMINATION

- WHAT IS FAMILY RESPONSIBILITIES DISCRIMINATION (FRD)?
- WHY IS FRD A POLICY MATTER?
- WHICH CONSTITUENTS ARE AFFECTED BY FRD?
- WHAT STEPS HAVE POLICY MAKERS TAKEN TO ADDRESS FRD?
- WHERE CAN I GET MORE INFORMATION?

COMMENTS BY: MICHIGAN SENATOR DEB CHERRY



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ADDRESSING FAMILY RESPONSIBILITIES DISCRIMINATION (FRD)

Workplace discrimination against mothers and others based on their family caregiving responsibilities is a rapidly growing problem. Recently, the U.S. Equal Employment Opportunity Commission (EEOC) responded by issuing new enforcement guidance on caregiver discrimination. State policymakers are beginning to respond, too.

WHAT IS FAMILY RESPONSIBILITIES DISCRIMINATION (FRD)?

Family responsibilities discrimination (FRD) is employment discrimination against workers based on their responsibilities to care for family members. For example, a pregnant employee, a mother or father with a young child, or a worker who cares for an elderly parent or family member with a disability may experience FRD if they are unfairly penalized at work based on their family responsibilities. They may be passed over for hire or promotion, harassed, terminated, or otherwise penalized, despite good performance, because their employers make personnel decisions based on stereotypical notions of how they will or should act given their family responsibilities.

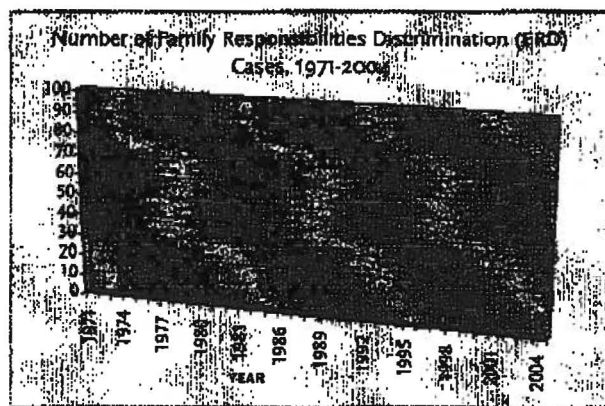
Examples:

- Firing well-performing employees because they are pregnant or plan to take maternity or paternity leave
- Failing to promote qualified employees who are mothers and instead giving promotions to women who do not have children or to fathers
- Harassing or penalizing workers who have lawfully taken family leave to care for their aging parents or ill spouses or partners

WHY IS FRD A POLICY MATTER?

Changing workplace demographics have led to more working parents and workers with elder-care responsibilities. The dramatic rise of nearly 400% in the number of FRD cases filed between 1995 and 2005 as compared to the previous decade underscores the prevalence of this type of discrimination.¹

- The recent enforcement guidance issued by the U.S. Equal Employment Opportunity Commission (EEOC) highlights the steadily growing problem of employment discrimination against family caregivers.²
- There is currently no federal law and only two state laws (Alaska and the District of Columbia) that expressly prohibit FRD. Instead, employers are being sued by employees for FRD under approximately 17 different legal theories pursuant to almost every federal employment law, state leave and antidiscrimination laws, and common law causes of action.³
- Policy makers in several states have introduced new legislation explicitly prohibiting FRD.⁴



Source: Still, M.C. (2006). *Litigating the maternal wall: U.S. lawsuits charging discrimination against workers with family responsibilities*. San Francisco: Center for WorkLife Law. Retrieved October 1, 2008, from <http://www.worklifelaw.org/pubs/FRDreport.pdf>.

This chart represents an analysis of 613 FRD cases collected as of 2005. The Center for WorkLife Law will be releasing an update to this data in 2009, available when published at <http://www.worklifelaw.org>.

"I FEEL VERY STRONGLY THAT EMPLOYEES SHOULD NOT BE DISCRIMINATED AGAINST FOR ANY LEGAL BEHAVIOR OR LIFESTYLE CHOICES CONDUCTED OUTSIDE OF THE WORKPLACE, INCLUDING FAMILY STATUS. FAMILY STATUS SHOULD BE TREATED NO DIFFERENTLY THAN GENDER, RACE, OR RELIGION, AND THE INTENTION OF LEGISLATION TO SAFEGUARD AGAINST FAMILY RESPONSIBILITIES DISCRIMINATION IS TO FURTHER UPHOLD THE BASIC CIVIL RIGHTS OF ALL CITIZENS, IN THE WORKPLACE AND OUT. WHETHER SOMEONE IS NEWLY EXPECTING, RAISING A FAMILY OF FIVE, OR CARING FOR AN AGING OR ILL FAMILY MEMBER, THEY SHOULD NOT HAVE TO FEAR REPERCUSSIONS FROM THEIR EMPLOYER THAT COULD JEOPARDIZE THE VERY INCOME THAT THEIR FAMILY DEPENDS ON."

MICHIGAN SENATOR DEB CHERRY ON SENATE BILL 462



FRD IS A GROWING PROBLEM.

Today, the majority of American workers have some family caregiving responsibilities outside of work—a reality that has significant impacts on both employees and their employers.

- Seventy percent of U.S. families with children have all adults in the labor force.⁵ Women now make up almost half of the U.S. labor force (46%),⁶ and most women in the United States have children (81% by age 44).⁷
- One in four families takes care of elderly relatives,⁸ who are living increasingly longer because of advances in science and medicine.⁹
- One in ten employees is a member of the “sandwich generation,” with caregiving responsibilities for both children and elderly parents.¹⁰

WHICH CONSTITUENTS ARE AFFECTED BY FRD?

Individuals

Any person who has both a job and family caregiving responsibilities can be affected by FRD. FRD suits have been brought by men and women across the income spectrum in a wide array of industries—from grocery clerk to executive.¹¹

- Working mothers experience the highest incidence of FRD. In a recent study, mothers were 79% less likely to be recommended for hire, 100% less likely to be promoted, and offered an average of \$11,000 less in salary for the same position as similarly qualified non-mothers.¹²

Businesses

Businesses are often caught off guard by lawsuits caused by employment actions they may not have known were illegal.

- Employers involved in FRD lawsuits have been subject to verdicts as high as \$11.65 million in an individual case¹³ and \$49 million in a class action.¹⁴
- Employers who win FRD lawsuits may still be subject to substantial litigation costs—including attorneys’ fees, administrative resources spent on litigation support, and damage to the business’ reputation in the community.

Businesses also face significant turnover costs—including recruiting and training costs and lost productivity—if they do not recognize the needs of their employees with caregiving responsibilities.¹⁵ Clear guidance on what does and does not constitute unlawful discrimination can also help businesses implement useful prevention strategies such as policies prohibiting FRD, complaint procedures, and training programs for managers.

WHAT STEPS HAVE POLICY MAKERS TAKEN TO ADDRESS FRD?

Existing Law

- Alaska prohibits employment discrimination based on “parenthood” (Alaska Statute § 18.80.220).
- The District of Columbia prohibits employment discrimination based on “family responsibilities” (D.C. Human Rights Act §§ 2-1401.01, 2-1401.02(12), 2-1402.11, 2-1411.02).
- The federal government prohibits employment discrimination against federal government employees on the basis of their “status as a parent” (Federal Executive Order 13152).
- Over 55 localities prohibit employment discrimination based on “familial status,” “family responsibilities,” “parenthood,” or “parental status.”¹⁶

In addition:

- Connecticut prohibits employers from requesting or requiring information relating to “familial responsibilities” from an applicant or employee (Conn. General Statute § 46a-60(a)(9)).

Proposed Legislation

Since 2007, legislation has been proposed in eight states and New York City related to the issue of family responsibilities discrimination.

- New Jersey is considering legislation to add “familial status” to its employment discrimination protections (A2292 & S234 (2008-2009)).
- California considered legislation to add “familial status,” which it defined to include caregiving for family members, to its employment discrimination protections (SB 836 (2007-2008)).
- Florida considered legislation to add “familial status” (among other categories) to its employment discrimination protections (S572 & H191 (2008)).
- Iowa considered legislation to add “marital or family status” to its employment discrimination protections (HF 532 (2007)).

WHAT STEPS HAVE POLICY MAKERS TAKEN TO ADDRESS FRD? (CONTINUED)

- Michigan considered legislation to add “familial status” to its employment discrimination protections (SB 462 (2007-2008)).
- New York considered legislation to add “family responsibilities” to care for children to its employment discrimination protections (A3214 (2007-2008)).
- Pennsylvania considered legislation to add “familial status” and “marital status” to its employment discrimination protections (HB 280 & SB 280 (2007-2008)).

In addition:

- Montana considered legislation to add “family responsibilities” (among other categories) as a basis for a hostile work environment employment discrimination claim (HB 213 (2007)).
- New York City is considering a measure to add “caregiver status” to its employment discrimination protections and require reasonable accommodations for caregivers (Int. No. 565 (2007)).

WHERE CAN I GET MORE INFORMATION?

The Center for WorkLife Law – <http://www.worklifelaw.org>

- “The Center for WorkLife Law is a nonprofit research and advocacy organization based at the University of California, Hastings College of the Law that takes a 360 degree approach, working with employees, employers, attorneys, unions, legislators, researchers, and the press to prevent and address the problem of family responsibilities discrimination.” Website includes numerous publications on FRD, as well as information on existing and pending public policy to address FRD.

Equal Rights Advocates – <http://www.equalrights.org>

- “Equal Rights Advocates (ERA) is a public interest law center whose mission is to protect and secure equal rights and economic opportunities for women and girls through litigation and advocacy.”

A Better Balance – <http://www.abetterbalance.org>

- “A Better Balance is a legal advocacy organization dedicated to empowering individuals to meet the conflicting demands of work and family. It has a project addressing family responsibilities discrimination against low-income workers in New York City.”

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The Sloan Work and Family Research Network can provide you with additional research-based information about working families.

VISIT WWW.BC.EDU/WFNETWORK, EMAIL WFNETWORK@BC.EDU, OR CALL 617.552.1708.