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## Evidence to Support an Inclusive Family Definition in Oregon's Paid Family and Medical Leave Legislation (HB 2005-B)

Families in Oregon take diverse forms. Due to cultural, economic, and social forces, the overwhelming majority of households depart from the "nuclear family" model of a married husband, wife, and their biological children.<sup>1</sup> People in Oregon are waiting longer to marry (if they choose to do so at all), and the percentage of adults living together and raising children outside of marriage has increased significantly. Many people also live with, or depend on, extended family members and non-related loved ones. In particular, people often rely on "chosen family," or loved ones who are the equivalent to family members, for care and support in times of need.

It is important that paid leave laws and policies in Oregon apply to all families and reflect what families actually look like and as is included in HB 2005-B. This fact sheet provides background on the federal government's use of a model family definition, evidence that supports inclusive family definitions, and the momentum for paid leave laws that cover chosen family.

### The Federal Government's Model Family Definition for the Federal Workforce

*The federal government's definition of family—which includes individuals "related by blood or affinity to the employee whose close association with the employee is the equivalent of a family relationship" (whether or not they have a blood relationship)—comes with a track record of success.*

- The federal government, the nation's largest employer with more than two million employees, has used—and repeatedly expanded—a chosen family standard for more than 45 years. This language has been used in the context of funeral leave since 1969 (allowing workers to take funeral leave for chosen family during the Vietnam War), for voluntary leave transfers since 1989, and for sick leave generally since 1994.<sup>2</sup>
- Federal workers are entitled to use up to 12 weeks (or 480 hours) of sick leave a year to care for a family member—including chosen family—with a serious health condition.
- The Office of Personnel Management reported to Congress favorably about usage rates of sick leave after paid sick time was expanded in 1994 to cover chosen family through this standard, noting that even after the federal government expanded the definition of family, employees used less than a third of the sick leave available.<sup>3</sup>

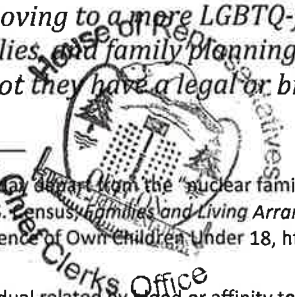
### The Particular Importance of Chosen Family to Oregon's LGBTQ Community

*Many LGBTQ adults—especially older adults—do not have accessible relationships with biological relatives for several reasons, such as moving to a more LGBTQ-friendly area away from biological family, LGBTQ stigma within biological families, and family planning choices. These workers have family-like relationships with loved ones, whether or not they have a legal or biological relationship.*

<sup>1</sup> More than 80 percent of households today depart from the "nuclear family" model of a married couple and their minor children, compared with 57 percent in 1950. Calculation based on U.S. Census Bureau, *Families and Living Arrangements, Historical Time Series* (Tables HH1: Households by Type: 1940 to present and Table FM-1: Families by Presence of Own Children Under 18, <http://www.census.gov/hhes/families/data/historical.html> (last accessed January 2019).

<sup>2</sup> The relevant language covers "an individual related by blood or affinity to the employee whose close association with the employee is the equivalent of a family relationship..." Funeral Leave, Fed. Reg., Vol. 34, No. 163 (August 26, 1969) (codified at 5 C.F.R. pt. 630); Absence and Leave; Voluntary Leave Transfer Program, 54 Fed. Reg. 47991 (January 31, 1989) (codified at 5 C.F.R. pt. 630); Absence and Leave; Sick Leave, 59 Fed. Reg. 62266-01 (December 2, 1994) (codified at 5 C.F.R. pt. 630).

<sup>3</sup> Report to Congress on the "Federal Employees Family Friendly Leave Act" (Public Law 103-388), United States Office of Personnel Management (June 1997), <https://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/reports/federal-employees-family-friendly-leave-act/>.



- In a 2016 national survey conducted by the Center for American Progress, 32% of people in the United States reported that they took time off work to provide care for a chosen family member. Higher rates were reported by LGBTQ participants (42%, compared with 31% of non-LGBTQ participants) and participants with disabilities 42%, compared with 30% of participants without disabilities).<sup>4</sup>
- More than 120,000 residents of Oregon live with an unmarried partner. Significant others who have not legally formalized their relationship should have the right to care for each other during illnesses.<sup>5</sup>
- In Oregon, 72,000—or 8%—of children live with cohabiting unmarried partners.
- Many long-term couples have chosen—for various reasons—to live together as unmarried. For example, many heterosexual seniors face unique, negative financial consequences under federal law if married.
- Sixty-four percent of LGBTQ adults between the ages of 45 and 64 said that they have a “chosen family,” defined in the survey as “a group of people to whom you are emotionally close and consider ‘family’ even though you are not biologically or legally related.”<sup>6</sup>

### **Growing Support and Use of Inclusive Family Definitions in Other Localities**

*An increasing number of states and localities are passing paid leave protections with inclusive family definitions, providing support for a wider range of families and identifying themselves as family-friendly places to work.*

- Paid family leave laws in New York and Massachusetts cover close relationships, depending on a “nexus of factors,” through a flexible and fact-specific domestic partner definition that does not require the relationship to be legally formalized.
- Since 2016, eight localities and the states of Arizona, Rhode Island, and New Jersey have passed paid sick and safe time laws that cover chosen and extended family. Under these 11 laws, an estimated 15 million workers will gain the right to use paid sick time to care for chosen and extended family.

### **Examples of Types of Non-Traditional, Chosen Family Members**

*Many workers live with a significant other or chosen family members and many unmarried couples are raising children. The prevalence of these relationships shows the importance of covering significant others who are not married or in a registered domestic partnership or civil union.*

- An immigrant or refugee that has no biological family in the U.S., is not married, and has built a chosen family. They are diagnosed with cancer for which home care is provided by their chosen family. Primary caregivers include people in the same household and people outside that household.
- A person who is not connected to their biological family due to homophobia. They are not married or in a domestic partnership, but have a partner that they have been financially entwined with for over 15 years.
- An individual living in a multigenerational household providing care to an aging aunt or uncle.
- An individual who has power of attorney for another individual or is a health care proxy for an individual.
- An engaged couple with plans to marry.

<sup>4</sup> Katherine Gallagher Robbins et al, *People Need Paid Leave Policies That Cover Chosen Family*, Washington: Center for American Progress (2017), available at <https://www.americanprogress.org/issues/poverty/reports/2017/10/30/441392/people-need-paid-leave-policies-that-coverchosen-family/>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*, pp. 16-17.