



OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f

163 West 125th Street, 5th floor, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f

www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

**Testimony of Gale A. Brewer, Manhattan Borough President
Hearing of the New York City Council Committee on Civil Rights
September 21, 2015**

As Gale A. Brewer and the Manhattan Borough President, I thank Chair Darlene Mealy and members of the Committee on Civil Rights for the opportunity to testify about a local law to amend the City's Human Rights Law in relation to caregiver discrimination. I am proud to have introduced Intro 108A of 2014 with my friend and colleague Council Member Debi Rose of Staten Island.

Intro 108A-2014 would ban discrimination against caregivers in the workplace, and require that employers reasonably accommodate workers with certain needs related to the care of dependent people with disabilities, parental involvement in a child's education, and childcare or eldercare emergencies. This legislation was originally introduced in 2007 by then-Public Advocate Betsy Gotbaum and I was the primary sponsor of the bill in 2012. Since then, family caregiving has become more commonplace as the number of families increases, and older adults either retire in the five boroughs or age in place. In a 2013 study, the New York City Department of Planning estimated the City's senior population (adults 65+ years of age) would reach 1,002,208 by 2020, and 1,409,708 by 2040. This trend underscores the need to develop public and private solutions to ensure that workers with eldercare or childcare responsibilities have equal employment opportunity and are protected from discrimination in the workplace.

Family Responsibilities Discrimination (FRD) is a form of employment discrimination that occurs when an employee is unfairly penalized at work because of his or her obligations to provide care for family members. Dozens of localities in over 20 different states, including Chicago, Washington D.C., Atlanta, Boston, and Miami-Dade County, have recognized the limits of existing law and prohibited caregiver discrimination at the local level. Thirteen states and the District of Columbia have enacted laws to guarantee time off for parents to attend their children's educational events.

Caring for an older relative or friend or for a child is now the 'new normal' of family caregiving in the United States. The 2011 Gallup Healthways Well-Being Index found that more than one in six Americans who work a full or part-time job also report assisting with care for an elderly or disabled family member, relative, or friend. AARP's website features a range of helpful caregiving tools and resources including an App and 'I Heart Caregivers' storybank, reflecting the widespread nature of these arrangements.

Eldercare and childcare responsibilities fall disproportionately not only on women, but also on low-wage workers. Contrary to popular belief, having family responsibilities is not, in and of itself, a protected characteristic under federal anti-discrimination laws. Family caregiving responsibilities at home can lead to negative consequences at work. The financial impact on working caregivers who leave the labor force due to caregiving demands can be severe. Workers with childcare or eldercare responsibilities report the kinds of workplace

effects that open up employees to discrimination. The most common include arriving late, leaving early, or taking time off during the day to provide care, but also taking a leave of absence or reducing work hours from full to part time. An estimated 10 percent of these family caregivers quit their jobs to give care or chose early retirement.

Furthermore, FRD arises from treating employees with caregiving responsibilities less favorably than other employees due to unexamined assumptions that their family obligations may mean that they are not committed to their jobs. A Better Balance's Work and Family Legal Center regularly counsels employees with family responsibilities who encounter FRD bias, including being disciplined for taking personal days while non-caregiving employees are not and being required to make up missed hours while their non-caregiver colleagues are not. These experiences have shaped the language and momentum for the legislation we are discussing today and I'm proud to be partners - yet again - with A Better Balance in this important endeavor to create a more equitable work-life balance in our city.

It is imperative that employees not be penalized or lose their job due to eldercare or childcare responsibilities. The City's Human Rights Law explicitly prohibits discrimination in employment, housing, and public accommodations based on race, color, creed, age, national origin, alienage or citizenship status, gender (including gender identity and sexual harassment), sexual orientation, disability (including pregnancy), marital status, and partnership status. Interns, whether paid or not, are considered employees under the law. Yet the current law does not explicitly prohibit discrimination based on caregiver status. Rather, FRD claims are actionable only when discrimination against family caregivers qualifies as discrimination under other federal statutes.

Legislation to prohibit workplace discrimination against family caregivers would not give any group special rights. It would simply require employers to treat workers with caregiving responsibilities the same way that they treat other employees. Thus, an employer who readily allows a student's work schedule to be shaped around their class schedule could not refuse to show similar flexibility for an employee caring for an older adult or a child. Anti-discrimination law simply requires equal treatment.

Int 108A would expressly prohibit employment discrimination based on an individual's actual or perceived status as a caregiver and would thereby add caregivers to the protected classes in the workplace under the New York City Human Rights Law. The strength of our neighborhoods is founded on families and friendships and the ability to support the wellbeing and development of others. These responsibilities should not expose New Yorkers to discrimination or job loss.

Thank you again for the opportunity to testify and to all of those who are here in support. I am honored to have introduced Int. 108A with Council Member Rose and I urge the Committee to vote in favor of the bill.