

# Gay workers will get time to care for partner's sick child<sup>[1]</sup>

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## EXCERPTS

WASHINGTON - President Obama will soon expand the rights of gay workers by allowing them to take family and medical leave to care for sick or newborn children of same-sex partners, administration officials said Monday.

The policy will be set forth in a ruling to be issued Wednesday by the Labor Department's wage and hour division, the officials said.

Under a 1993 law, people who work for a company with 50 or more employees are generally entitled to 12 weeks of unpaid leave to care for a newborn or for a spouse, son or daughter with "a serious health condition."

The new ruling indicates that an employee in a same-sex relationship can qualify for leave to care for the child of his or her partner, even if the worker has not legally adopted the child.

The ruling, in a formal opinion letter, tackles a question not explicitly addressed in the 1993 law. It is one of many actions taken by the Obama administration to respond to the concerns of gay men and lesbians within the constraints of the Defense of Marriage Act, which defines marriage as a union between a man and a woman as husband and wife.

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On Tuesday, Mr. Obama plans to welcome lesbian, gay, bisexual and transgender rights advocates to a White House reception celebrating June as "LGBT Pride Month."

The Human Rights Campaign, a gay rights group, worked with the administration to develop the policy on family leave.

Jennifer W. Chrisler, executive director of the Family Equality Council, another advocacy group, estimated that one million lesbian, gay, bisexual and transgender families were raising two million children.

The upshot of the Labor Department policy, she said, is that "if you act like a parent, do the work of a parent and raise a child like a parent, then you are a parent for the purpose of the Family and Medical Leave Act."

Federal law does not recognize same-sex relationships. But Labor Department lawyers have concluded that people in such relationships may nevertheless qualify for family and medical leave when they act as parents, sharing the care and support of a child.

The 1993 law, the Family and Medical Leave Act, allows employees to take time off for certain family and medical needs, including the care of a son or daughter with health problems.

Under the law, "the term 'son or daughter' means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis." The law does not define "in loco parentis." But the relevant federal regulations say, "Persons who are 'in loco parentis' include those with day-to-day responsibilities to care for and financially support a child."

Moreover, the rules say, "A biological or legal relationship is not necessary."

State laws on adoption by same-sex couples vary widely. In some states, it is allowed. In others, it is not. And in many states, the law is unclear.

The 1993 law cannot be used to care for a partner or spouse of the same sex because federal law does not recognize same-sex relationships.

But many employers, including scores of large companies, provide benefits more comprehensive than those required by federal law. The benefits may include time off to care for domestic partners.

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