

# Arizona's Anti-Family Reversal

After making important strides toward fairness, Arizona is stripping public employees of domestic partner benefits. Lambda Legal Staff Attorney Tara Borelli writes about why this hurts families, and what's being done to fight it.

Tracy Collins, a senior highway patrol officer for the Arizona Department of Public Safety knows what it means when an employer acts to safeguard the well-being of your family—and then takes it back.

Collins, who previously served as a U.S. Air Force Reservist, helped to raise two beautiful daughters and their nephew with her beloved partner of over 10 years, Diana. When Diana developed a debilitating pain condition that left her bedridden for five years, Collins cared for her, supporting the family on her own until Diana fully recovered. Unfortunately, Diana did not have access to health insurance for the first two years of her illness. The cost of her care overwhelmed the family's finances, and Collins was forced to seek relief in bankruptcy court.

Diana's current job also does not offer health benefits. So it was an enormous relief to the couple when Arizona made domestic partner benefits available to state employees in 2008. "I put my life on the line every day for the people of Arizona just by going to work," Collins says. "Though the stress of working a dangerous job takes a toll on my family, I'm proud to serve and protect our community. But losing Diana's health coverage will put us in a desperate situation."

## Respect For Families

Benefits for the same-sex domestic



Fighting for fair treatment in Arizona (left to right): plaintiff Carrie Sperling; Sperling's partner, Sue Shapcott; community activist Tania Katan; Equality Arizona board member Bart Morgenegg; plaintiff Tracy Collins; Collins' partner, Diana Forrest; Lambda Legal Staff Attorney Tara Borelli and Jennifer Morris, partner of plaintiff Leslie Kemp.

partners of Arizona's public employees were first provided under the leadership of former Governor Janet Napolitano, part of the important progress the state made on behalf of lesbian and gay employees. This included a 2003 executive order prohibiting sexual orientation discrimination in public

Napolitano departed to become Secretary of Homeland Security and Governor Jan Brewer succeeded her, the legislature took aim at domestic partner health benefits. While our nation was in the grips of an intense debate about improving health care access for more of our country's uninsured, the Arizona

**"Losing Diana's health coverage will put us in a desperate situation."**

employment (when antigay groups sued in 2003 to invalidate the order, Lambda Legal helped persuade Arizona's Supreme Court to reject their case).

This summer, however, after

legislature cruelly tossed its lesbian and gay employees' partners off its health insurance rolls and enshrined this policy of discrimination in state statute. Leaving health coverage intact for spouses of heterosexual





Former Governor Janet Napolitano (left) signed the benefits into law. Her successor, Jan Brewer (right), signed the bill eliminating them.

employees, the new law singled out lesbian and gay employees—who cannot marry in Arizona—for discriminatory treatment.

Now Tracy and Diana are in a frightening predicament. If they lose domestic partner health benefits for Diana, they will have no choice but to hope that Diana's previous condition does not recur. They will also have to purchase the blood-pressure prescription medication she needs out-of-pocket, a burden the family can ill afford as they attempt to rebuild their finances.

### Why Domestic Partner Rights Matter

In an era where same-sex couples may marry in five states, and where their marriages are recognized in even more, our movement has its sights set on nothing less than full equality, including the freedom to marry.

But domestic partner benefits remain a cornerstone in the strategy to protect the families of lesbian and gay workers. In states like Arizona, where an amendment to the state's constitution currently bars access to marriage for same-sex couples, domestic partner benefits are especially critical to providing some of the basic protections that are an important safety net for any couple. This is particularly true for health benefits, which are a lifeline to a family's well-being and financial security.

### A Strategy For Justice

Lambda Legal filed *Collins v. Brewer* on November 17, 2009, suing on behalf of 10 affected workers to block the law from taking effect. Now we're moving the case forward

expeditiously to prevent state officials from enforcing the law.

The equal protection theory Lambda Legal is advancing in this case is buoyed by state court successes, and a mainstream embrace of the fairness inherent in providing equal pay for equal work. Nationally, at least 18 states and the District of Columbia now offer domestic partner benefits to lesbian and gay state employees, as do many more municipalities throughout the country. More than eighty percent of Fortune 100 companies and a majority of Fortune 500 companies offer family coverage to lesbian and gay employees. Employers throughout the country—both public and private—have come to recognize that domestic partner benefits are necessary to ensure parity for their

The law's move to punish lesbian and gay workers is not just unfair; it's unconstitutional.

lesbian and gay employees, as a plain matter of fairness and common sense.

Studies show that domestic partner health benefits are not disproportionately expensive, but rather sound fiscal policy that allows employers to recruit and retain top talent, and to improve employee morale and productivity. Employees are healthier and happier when they are not forced to worry that, without coverage, a loved one's accident or serious illness could force their household to the brink of financial ruin.

Recently, Lambda Legal represented Washington firefighter paramedics and a 911 dispatcher in *deGroen v. City of Bellevue*, securing benefits for domestic partners of

Bellevue, Washington employees. Shortly thereafter we secured coverage based on similar legal claims for municipal employees of Redmond, Washington.

### Fighting for Fairness

We decided to bring this case in federal court because the federal landscape continues to shift in promising ways. Federal policymakers are having an unprecedented conversation about providing domestic partner health benefits to federal employees, advanced by the Obama administration's strong support for a pending federal bill that would provide these benefits.

Federal courts are also being asked to decide other momentous questions about the rights of same-sex couples, including a case filed by private attorneys in a California federal court seeking to allow same-sex couples again to marry in California. This case will be heard by the same federal Court of Appeals that would consider our case on appeal. We believe there is a powerful, straightforward and compelling argument that constitutional guarantees, at federal and state levels, require this basic and modest measure of equal treatment for lesbian and gay public employees.

### When Politics Are Personal

Lambda Legal's other clients in the case face a range of anxiety-provoking circumstances, from losing coverage for their young children to losing coverage for partners with pre-existing conditions such as diabetes, glaucoma and asthma that render them uninsurable at any price as individuals in the private market.

The targeting of Arizona's lesbian and gay state workers for unequal treatment—and enshrining this patently discriminatory policy in Arizona's law—is a stark reminder that we have so much more to do, even as we are making other progress. Lambda Legal will continue its work to secure equal treatment for same-sex couples and their families, so that officers like Tracy Collins can count on being treated as fairly as the officer in the next patrol car. **L**