Reaching a Breaking Point: How FMLA Fails Today's Working Caregivers

Three decades after being signed into law, the Family and Medical Leave Act is failing America's working caregivers. What can employers and HR do to fill the gap?

July 1, 2025 | Kelsey Casselbury

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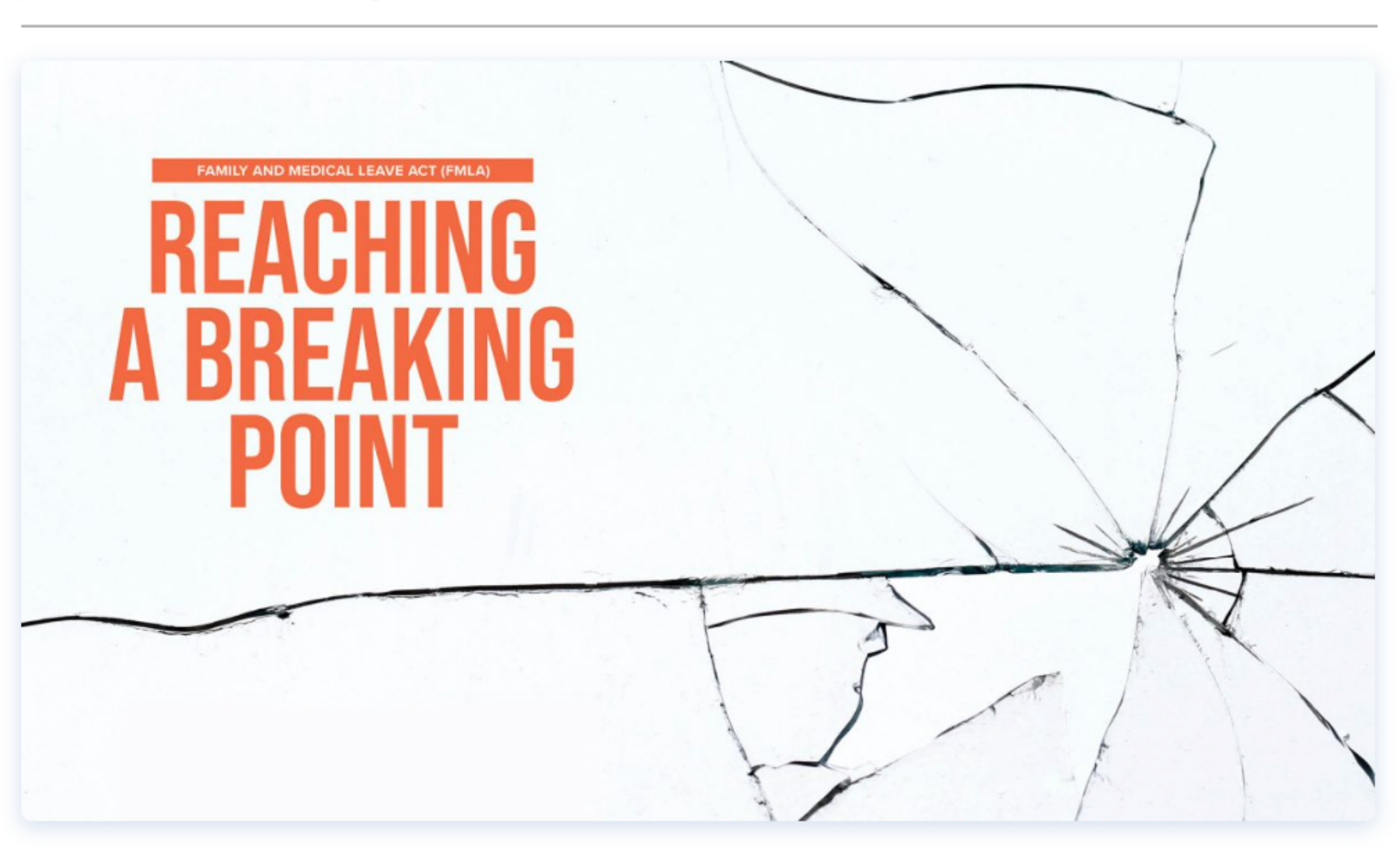

FAMILY AND MEDICAL LEAVE ACT (FMLA)
REACHING A BREAKING POINT

When Jessie Heath, SHRM-CP, and his husband, Joe Cole, adopted their first daughter, they had just days to prepare to become parents. "We were essentially thrown into parenthood overnight — in the best and most intense way possible," said Heath, the director of global talent, culture, and inclusion at La-Z-Boy. "While the love was instant, the emotional whirlwind was real."

Adding a layer of complexity, their daughter spent 45 days in the NICU in Cleveland, about two and a half hours away from their home in Toledo, Ohio.

Although Heath and Cole both qualified for leave under the federal Family and Medical Leave Act (FMLA), it would be unpaid. For them — as for so many other caregivers — 12 weeks without a salary wasn't an option. Cole continued to work.

Heath, who then worked for a different company, chose to stay in Cleveland, while Cole drove back and forth weekly. The new parents struggled.

"Suddenly we were filing FMLA paperwork, coordinating with our employer's leave vendor, and trying to produce all the right documents while also managing the very real, very raw experience of becoming a family," Heath said. "It's hard to explain the pressure of handling that logistical layer while you're navigating such an intimate and emotional moment in your life."

The cost of living in America has skyrocketed since then-President Bill Clinton signed the FMLA into law in February 1993. Today, more families consist of two working parents than in the past (41.2% in the late 1980s compared to 67% in 2023, per the U.S. Bureau of Labor Statistics), and what you could buy with $100 at that time now costs $274, according to the agency's CPI Inflation Calculator.

Most significantly, perhaps, the makeup of families and the dependents whom working caregivers are responsible for has shifted. As a result, these caregivers are shouldering more burdens than ever — and it's up to employers to fill in the gaps where the FMLA fails those it intended to protect.

FMLA Basics

The Family and Medical Leave Act (FMLA) is a 1993 federal law designed to help employees balance work demands with family and medical needs. Key provisions include:

- Up to 12 weeks of unpaid, job-protected leave in a 12-month period for employees whohave worked for their employer for at least 12 months and accumulated at least 1,250 hours during the previous year.
- To qualify, an employee must work for an organization that has at least 50 employees within a 75-mile radius.
- Applicable reasons include serious health conditions, caring for a covered family member with a health condition or disability, or the birth/adoption and care of a child.
- Employers must maintain group health insurance coverage during the leave period.
- Employees are guaranteed the same or an equivalent position upon returning from leave.

Modern Families, Outdated Laws

The 32-year-old FMLA has been revised only twice: in 2008 and 2010, both times to address military-related leave. When it comes to qualifying for general caregiving leave, the current legislation limits people being cared for to:

- The employee's spouse.
- The employee's parent (biological or "in loco parentis," meaning anyone who is acting like a parent, despite a lack of biological or legal relation).
- A biological or adopted child, a foster child, a stepchild, or a legal ward under age 18.
- An adult child incapable of self-care because of a mental or physical disability.

Employers have begun to recognize that this isn't enough. Nearly 9 in 10 employers surveyed said Congress has both an opportunity and a responsibility to revise the FMLA to meet the current and future needs of work, workers, and the workplace, according to 2025 SHRM research, *The Family and Medical Leave Act of 1993 Reimagined*.

"Caregiving is no longer a short-term or isolated responsibility — it's a long-term reality for a growing portion of the workforce," said James Atkinson, vice president of thought leadership at SHRM. "Outdated leave policies that fail to address employees' care needs risk leaving employees feeling unsupported, which can negatively impact employee retention and productivity."

If the FMLA's standard definition of "covered family members" were expanded, SHRM's research found that employers would support adding the following:

- Domestic partners (65%).
- Nondisabled adult children (62%).
- Parents-in-law and parents of a spouse or domestic partner (62%).
- Siblings (61%).
- Grandparents and grandchildren (59%).
- Stepparents (57%).
- Adoptive or foster parents (51%).

This notably leaves out aunts, uncles, cousins, and close friends, as employers indicated less support for modifying the FMLA to include these relationships. As a member of the LGBTQ+ community, Heath believes this is where the FMLA really misses the mark.

"You have a very limited scope of what's inclusive of families," he explained. "Many of us have had to create our own families."

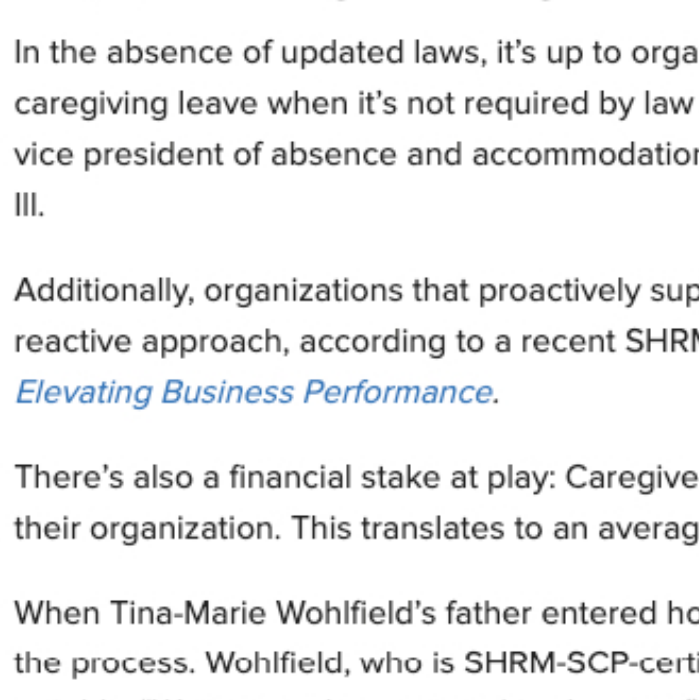
Toolkit: Navigating the FMLA

The lack of clarity surrounding additional FMLA provisions creates other challenges. For example:

- More than 60% of SHRM members surveyed said the term "in loco parentis" is hard to understand.
- Nearly three-quarters of respondents said it's difficult to determine how much time an employee has taken and what's left when administering intermittent leave.
- 59% of employers said it's difficult to manage the coordination of FMLA leave with other types of paid or unpaid leave or salary continuation programs, such as short-term disability or workers' compensation.

However, while a nationwide requirement for paid leave sounds good in theory, "that might be a real hardship for some employers," cautioned Robin Shea, an attorney with Constangy, Brooks, Smith & Prophete in Winston-Salem, N.C.

Expanding FMLA coverage can — and often will — tax the company's budget and operations, SHRM research indicated. It could increase the financial impact of accommodating FMLA leave or disrupt staffing needs, as well as potentially boost the risk of employees abusing FMLA leave.



> **We, as employers, need to do more.**
>
> **Tina-Marie Wohlfield, SHRM-SCP, Chief People Strategist**
> **TIMAWO, LLC**

Supporting Caregivers Beyond Legislation

In the absence of updated laws, it's up to organizations to fill the gaps through empathy, flexibility, and resources for employees. Offering caregiving leave when it's not required by law isn't just popular but is also a critical benefit to attract and retain employees, said Matt Morris, vice president of absence and accommodation compliance at ComPsych Absence Resources and vice president of FLMASource in Evanston, Ill.

Additionally, organizations that proactively support working caregivers experience better employee engagement than those that take a reactive approach, according to a recent SHRM report, *The Caregiving Imperative: Organizational Solutions for Supporting Caregivers and Elevating Business Performance*.

There's also a financial stake at play: Caregivers unexpectedly miss an average of 1.2 days of work per month due to insufficient support from their organization. This translates to an average of $17.5 billion in lost wages every month.

When Tina-Marie Wohlfield's father entered hospice, she felt a duty as a daughter and an HR professional to support her mother in navigating the process. Wohlfield, who is SHRM-SCP-certified and the chief people strategist at Fraser, Mich.-based TIMAWO LLC, learned a lot — most notably, "We, as employers, need to do more."

Wohlfield's mother — who was still working for a private company she'd been employed by for two decades — chose to care for Wohlfield's father through in-home hospice. That decision was questioned by a company leader who had a startling response: Her mother made the wrong choice. She should have chosen a hospice home, he told her, so it wouldn't affect her day-to-day job — even though she was doing her best to come to the office at least part of each day and worked during off-hours to make up time.

Podcast: HR's Top FMLA Questions

That experience isn't uncommon. One in 5 working caregivers surveyed reported poor treatment at work because of caregiving responsibilities, and 22% said there is a negative stigma at their organization for being a caregiver, according to another SHRM report, *Care and Careers: Navigating Caregiving and Work Responsibilities*.

Additionally, caregiving takes a toll on caregivers' well-being, with negative effects on physical health (49%), mental health (47%), and overall quality of life (37%).

"When you go through [this situation] yourself, you see firsthand the impact of burned-out caregivers in the workplace," Wohlfield said. "It's mentally and physically exhausting."

> [The FMLA has a] very limited scope of what's inclusive of families. Many of us have had to create our own families.
>
> **Jessie Heath, Director of Global Talent, Culture, & Belonging**
> **La-Z-Boy**

Rethinking Policies, Retaining People

What can employers do to bridge the divide where the FMLA falls short? Strategies include:

Foster a Culture of Openness and Empathy

Nearly one-third (32%) of working caregivers surveyed by SHRM said they chose not to disclose their situation to an employer. In some ways, that might have been a better choice for Wohlfield's mother. Because there were no productivity issues, Wohlfield explained, company leaders would have never known if her mother hadn't alerted the organization.

When she did notify them, however, and the company leader responded harshly, Wohlfield's mother immediately resigned — mirroring SHRM's findings that working caregivers are often willing to leave their current job for a company that provides better support. Thankfully, someone else at the organization stepped in, refusing to accept the resignation and instead discussing ways the company could support her.

"Somebody shouldn't have to threaten to resign," Wohlfield said.

Methods to establish an empathetic and open workplace culture include holding sensitivity training and caregiving awareness workshops for managers; actively communicating policies and benefits; creating caregiver support groups; and launching regular educational campaigns via webinars, emails, or lunch-and-learns to increase awareness of caregiving resources.

Update and Expand Caregiving Policies

Constrained definitions of covered family members aren't the only challenge the FMLA poses to workers. The legislation never really fulfilled its objective, Heath argued, because it doesn't require employees to be paid during leave.

"Most of the population is not privileged enough to take unpaid time off," he said.

Additionally, the FMLA only requires up to 12 weeks of leave, a duration that might not be sufficient for a caregiver.

"Sometimes, there is no playbook for [HR] to follow," Wohlfield acknowledged. However, "trying to be flexible is really important."

Companies should regularly evaluate and update their caregiving policies, collecting feedback from employees to identify caregiving responsibilities, gaps in current company policies and benefits, and opportunities for improvement.

Employers might choose to take cues from states that have implemented broader leave laws by integrating those offerings into their own policies and procedures. However, when choosing to go beyond FMLA requirements by instituting voluntary policies or when addressing individual circumstances, employers should retain discretion to determine eligibility for and the length of leaves, said Marcy Frost, an employment attorney in St. Louis Park, Minn. If the employer must go beyond the FMLA to comply with a state or local law, the employer should carefully track the leave that is granted, she noted.

Training and Development: FMLA Benefits Course

Provide Comprehensive Caregiving Resources

Upon requests from employees, La-Z-Boy created a working parent/caregiver employee resource group (ERG), Heath said, which has grown to be the company's second largest such collective. Staff members volunteer to lead the group, bringing in guest speakers on topics such as Alzheimer's care or dealing with their own emotions as caregivers.

Heath said he could have used this type of support group when adopting his daughters, "just to have someone to chat with. Someone else who understands."

Sometimes, Wohlfield said, being a caregiver comes down to project management skills. HR can help by conducting research and connecting the worker to community resources, such as organizations that can provide someone — a volunteer or a professional at a discounted rate — to sit with a loved one so the caregiver can do something as simple as grocery shopping.

Address Career Development for Caregivers

More than 2 in 5 employees surveyed for SHRM's research said caregiving duties have held them back from career advancement, while 57% said a career gap due to caregiving affected their ability to get the job they want.

HR leaders should learn to check their biases against caregivers during interviews, performance reviews, or other types of evaluations, Heath said. "We often see these individuals differently," he explained. "We need to make sure we're thinking broadly about what they're contributing versus how much you see them or how engaged they are."

HR teams can also develop return-to-work programs, such as reskilling or transition aids, for caregivers re-entering the workforce after employment gaps or offer mentorship or sponsorship to help caregivers climb the career ladder.

'They're Not Alone'

The challenges faced by caregivers in the workplace highlight the urgent need for more inclusive and supportive policies. The FMLA may have been a groundbreaking step in 1993, but it no longer meets the needs of today's diverse workforce. Employers have a unique opportunity to bridge these gaps by fostering empathy, flexibility, and proactive support for caregiving employees.

"Let them know they're not alone," and that you'll do whatever's possible to support them, Wohlfield said. "Sometimes, someone just needs to be seen or heard and given time to breathe."

States Step Up Where Federal Laws Fall Short

Fourteen states and Washington, D.C., have implemented their own FMLA laws that extend beyond federal provisions. These laws offer broader protections, such as expanded family member definitions and paid-leave options, helping more workers access the support they need.

"The interplay between state paid family leave and the FMLA — and any other leave provided under local law or company policy — can be quite complicated," said Emily Harbison, an attorney with Reed Smith in Houston.

The issue becomes even more complex for employers with that have workers in multiple states, she noted. Some state laws apply to employerswith fewer employees than the 50 that federal law mandates. Others don't require employees to have worked12 months for their current company before becoming eligible and/or have a lower threshold of hours that the employee must have worked, Harbison said.

Most significantly, some state laws allow employees to take leave for other reasons than permitted under the FMLA, and others have a broader definition of "family member." In-laws, other relatives, or individuals with an association to the employee equivalent to that of a relative might be covered by state law, she explained.

For example, in addition to thefamily members covered under the FMLA, the California Family Rights Act (CFRA) covers registered domestic partners , parents-in-law, grandparents, grandchildren, siblings, and "designated persons," said Ellen Donovan McCann, a Boston-based attorney with Littler, the nation's largest employment law firm.

U.S. Jurisdictions with Independent FMLA Laws:

- California
- Colorado
- Connecticut
- Delaware
- District of Columbia
- Maine
- Maryland
- Massachusetts
- Minnesota
- New Hampshire
- New Jersey
- New York state
- Oregon
- Rhode Island
- Washington state

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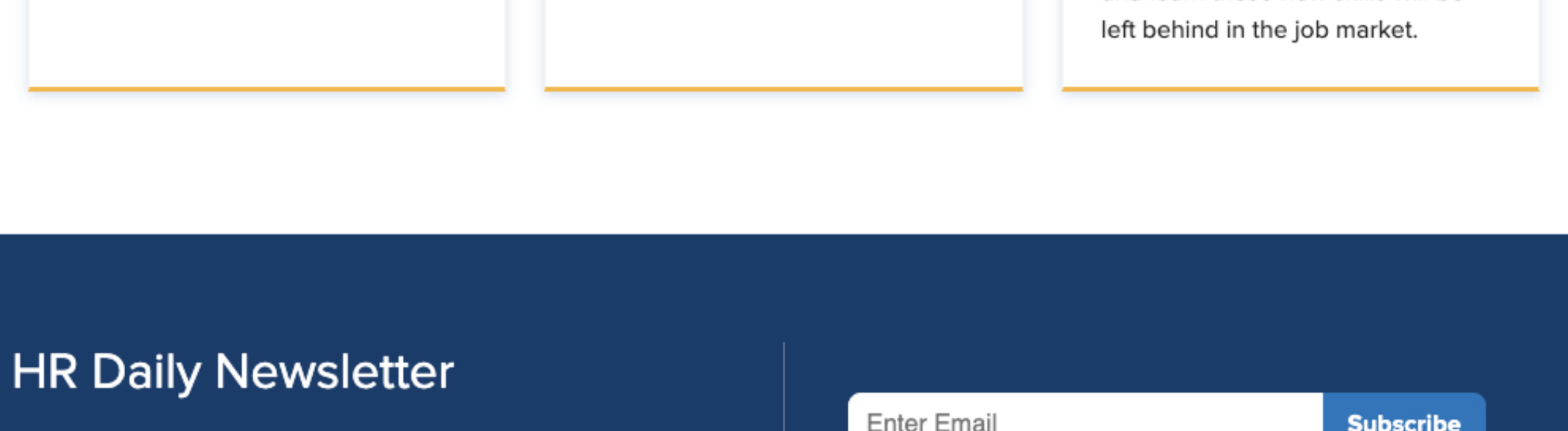
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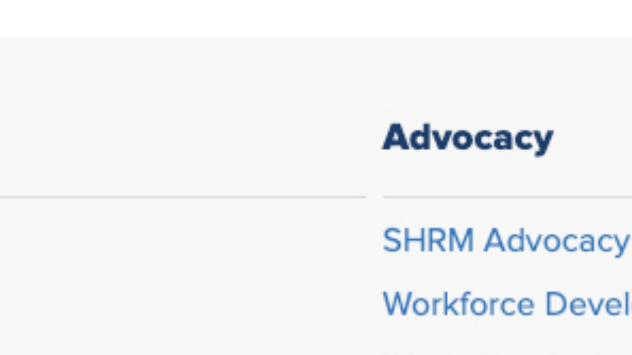

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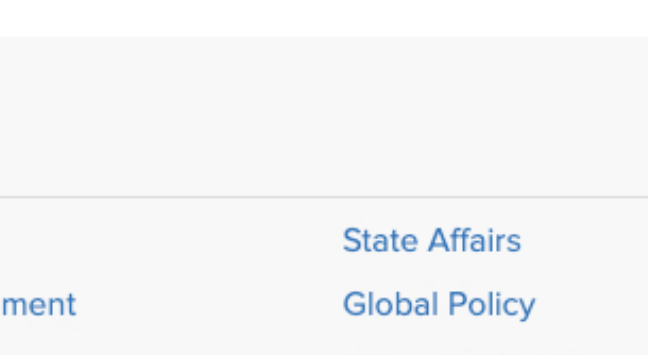

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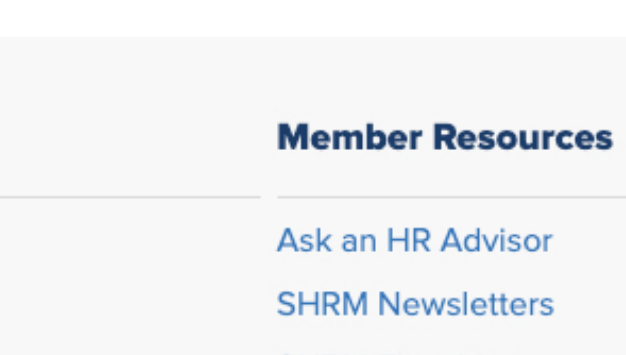

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