



the work and family legal center

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April 7, 2015

RE: A4272 (Gunther) Pregnancy Discrimination - SUPPORT

As an organization concerned for the public health and economic security of New York's women and families, we urge you to support A4272 (Gunther) and provide an affirmative, proactive right to reasonable accommodations for pregnant workers. This bill would help pregnant workers stay healthy and employed when they need simple work modifications on the job.

Despite existing legal protections, pregnant workers are all too often forced out of their jobs when they need adjustments at work for their health or their baby's health because the law does not explicitly guarantee reasonable accommodations for pregnancy and childbirth. Unfortunately, every year an estimated 250,000 pregnant workers are denied requests for accommodations, and many more do not even request changes at work, likely because of fear of retaliation.ⁱ

For example, Betzaida Cruz, a retail worker near Rochester, New York, was fired because her doctor advised her to avoid heavy lifting.ⁱⁱ Even though Ms. Cruz never had to lift anything heavy in her position as a cashier, her employer fired her without considering whether she could still perform her duties or if they could provide an accommodation that would allow her to continue. Due to losing her job, Ms. Cruz could no longer afford her rent and became homeless while expecting her first child. Unfortunately, Ms. Cruz's story is not an isolated one – A Better Balance has heard about many other women in similar situations, such as a pregnant retail worker who was rushed to the emergency room after fainting when her boss would not let her drink water and a pregnant cashier who was forced to spend 8-10 shifts on her feet when her boss refused to provide a stool.

A4272 explicitly prevents employers from forcing pregnant women out of the workplace and ensures that, where a minor job modification would allow a woman to continue working, an employer must provide it unless doing so would pose an undue hardship. This law is necessary to provide a proactive tool for pregnant women who do not have the time or bargaining power to use complex existing legal channels. The proposed law would provide certainty for employees and employers—preventing problems before they arise. Currently, Alaska, California, Connecticut, Delaware, Hawaii, Illinois, Louisiana, Maryland, Minnesota, New Jersey, Texas, West Virginia, Philadelphia, Providence and Central Falls, RI, and New York City all explicitly require certain employers to provide some reasonable accommodations to pregnant employees.ⁱⁱⁱ

Minor job modifications for pregnant women are a public health necessity. Women in need of income may have no choice but to continue working under dangerous conditions. According to New York's Dr. Wendy Chavkin, "Physically demanding work...has consistently been shown to be associated with a statistically significant increased risk of preterm delivery and low birth weight."^{iv} Pregnant workers should never have to put their health, or their baby's health, on the line just to earn a paycheck.



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Furthermore, New York's economy needs strong measures to support women in the workforce. Our state, which has one of the worst female labor force participation rates in the country,^v must work to increase the participation of women, including pregnant women, in the workforce.

Pregnancy-related adjustments at work also promote family economic security. By continuing to work, pregnant women can maintain income and seniority at work, whereas forced leave sets new mothers back with lost wages and missed advancement opportunities. On the other hand, providing reasonable accommodations carries benefits for employers, including reduced turnover and increased productivity.

We urge you to support the A4272 (Gunther) bill on pregnancy discrimination and would welcome the opportunity to provide you with detailed information on these recommendations and to speak with you further about the critical needs of pregnant workers. For more information, please contact me at (212) 430-5982 or dbakst@abetterbalance.org.

Sincerely,

Dina Bakst
Co-Founder & Co-President
A Better Balance: The Work and Family Legal Center

ⁱ Bryce Covert, "Why Are Workplaces Still Not Ready for Pregnant Workers?," January 31, 2014, available at: <http://thinkprogress.org/economy/2014/01/31/3235471/pregnant-workers-survey/>.

ⁱⁱ Todd Clausen, "Fairport woman: I was fired for being pregnant," Democrat & Chronicle (Mar. 4, 2015), available at: <http://www.democratandchronicle.com/story/money/business/2015/03/04/betzaida-cruz-cardona-pregnancy-discrimination-womens-equality-act/24381953/>.

ⁱⁱⁱ ABB, State and Local Laws Protecting Pregnant Workers, <http://www.abetterbalance.org/web/ourissues/fairness-for-pregnant-workers/310>.

^{iv} Dr. Wendy Chakin, Letter to New York City Councilmember James Vacca, November 29, 2012, available at: http://www.abetterbalance.org/web/images/stories/Chavkin_letter_FINAL.pdf.

^v New York Women's Foundation, *Statement and Recommendations on The Economic Status of Women in New York State*, (June 2008), pg. 4, available at: http://nywf.org/wp-content/uploads/2012/05/NYEcon_Status_Report_Statement.pdf.