

## FACT SHEET: Fairness for Pregnant Workers in Kentucky



**No woman in Kentucky should have to choose between the health of her pregnancy and her job.** Yet, this is happening all too often in the Commonwealth. The Kentucky Pregnant Workers Act (KY PWA) (SB 18) would ensure that pregnant workers are given fair treatment on the job, provide clearer expectations for employers, and boost Kentucky's economy.

Pregnant women are pushed out of their jobs because the law does not explicitly guarantee reasonable accommodations for pregnancy, breastfeeding, and childbirth. This means pregnant workers who simply need a stool to sit on, access to water to stay hydrated, or temporary relief from heavy lifting are pushed out of their jobs or even terminated. The KY PWA would explicitly ensure employers will reasonably accommodate employees with medical conditions related to pregnancy and breastfeeding when necessary **unless it would cause an undue hardship** on the employer.

### The Pregnant Workers Act Will Support Businesses By Clarifying Employers' Obligations to Pregnant Workers

- The KY PWA **will provide much needed clarity, leading to upfront and informal resolutions** among employers and employees in ways federal laws do not. The law will help *prevent* problems before they start.
  - While pregnant and breastfeeding women have some protections from discrimination under the federal Pregnancy Discrimination Act, those protections are limited—employers only need to accommodate pregnant workers if they already provide accommodations to other workers. And the Americans with Disabilities Act does not require accommodations for pregnancies that do not qualify as disabilities under the Act. This leaves many workers without protections and creates confusion among both employers and employees with regard to workplace accommodations.
  - **Twenty-four states**, including West Virginia, South Carolina (just passed in 2018), Illinois, Nebraska, and Utah already require certain employers to provide accommodations to pregnant employees.<sup>1</sup>
- The KY PWA will help employers:
  - Increase employee retention and morale, and reduce employers' turnover and training costs, which can be quite high.
  - Avoid costly litigation by providing clear guidelines for employers so they can anticipate their responsibilities.
    - At least two states with pregnant worker fairness laws have reported a reduction in litigation since the laws went into effect and other states have seen no increase.<sup>2</sup> **Clarity is particularly crucial for small businesses.** As one business publication in South Carolina stated “specific guidance regarding the requirements for accommodating workers with medical needs arising from pregnancy [] should be particularly helpful for small businesses.”<sup>3</sup>
  - Ensuring pregnant workers stay safe on the job will reduce employers' healthcare costs. **Each premature/low birth weight baby costs employers** an additional \$49,760 in newborn health care costs. When maternal costs are added, employers and their employees pay \$58,917 more

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when a baby is born prematurely.<sup>4</sup>

## Kentucky's Economy Needs Strong Measures to Support Women in the Workforce

- Kentucky ranks **48th in the country** for female labor force participation rates.<sup>5</sup> The Commonwealth must increase the participation of women, including pregnant women, in the workforce to strengthen its economy.
- The KY PWA will also save taxpayers money in the form of unemployment insurance, Medicaid costs, and other public benefits.

## The Kentucky Pregnant Workers Act Will Benefit Working Women and their Families

- It is estimated that **more than one quarter million** pregnant workers are denied requests for accommodations each year, and many more do not even request changes at work, likely because of fear of retaliation.<sup>6</sup>
- Women who need income but lack accommodations are often forced to continue working under unhealthy conditions, having no choice but to risk their own health as well as the health of their babies.<sup>7</sup> One in 9 babies in Kentucky are born pre-term.<sup>8</sup> Physically demanding work, where accommodations are more often necessary but too often unavailable, has been associated with an **increased risk for preterm birth and low birth weight**.<sup>9</sup>
- In a Health Impact Assessment for the bill, the Louisville Public Health Department wrote: “Accommodating pregnant workers, upon their request, is critical for reducing poor health outcomes.”<sup>10</sup>
- Here in Kentucky, and nationwide, pro-life & pro-choice groups both support legal protections ensuring reasonable accommodations for pregnant workers.<sup>11</sup>

For more information on this legislation, please contact Elizabeth Gedmark, the Director of the Southern Office/Senior Staff Attorney, at 615-915-2417 or [egedmark@abetterbalance.org](mailto:egedmark@abetterbalance.org).

<sup>1</sup> State Pregnant Worker Fairness Laws, A Better Balance, <https://bit.ly/2yEKL6P>.

<sup>2</sup> Equal Rights Advocates, *Expecting A Baby, Not A Lay-Off*, pg. 25, <http://www.equalrights.org/media/2012/ERA-PregAccomReport.pdf>. The Hawaii Civil Rights Commission reported a similar reduction in pregnancy discrimination complaints and litigation after enactment.

<sup>3</sup> *Pregnancy Raises Many Questions in the Workplace*, Upstate Business Journal (Aug. 16, 2018), <https://bit.ly/2pQC6KA>.

<sup>4</sup> *Premature Birth: The Financial Impact on Business*, March of Dimes, <https://bit.ly/2PCo2Qs>.

<sup>5</sup> Institute for Women's Policy Research, Kentucky State Profile, (2009), <http://www.iwpr.org/initiatives/womens-economic-status-in-the-states/sws-2009/kentucky-2009-1>.

<sup>6</sup> *Listening to Mothers: The Experiences of Expecting and New Mothers in the Workplace*, Childbirth Connection (Jan. 2014)(citing Martin J.A., Hamilton B.E., Ventura S.J., et al. (2013, June 28). Births: Final Data for 2011. National Vital Statistics Reports, 62(1). U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics Publication), <https://bit.ly/LfRdXd>.

<sup>7</sup> Renee Bischoff & Wendy Chavkin, *The Relationship between Work-Family Benefits and Maternal, Infant and Reproductive Health: Public Health Implications and Policy Recommendations*, (June 2008), pg. 13-17, [http://otrans.3cdn.net/70bf6326c56320156a\\_6j5m6fupz.pdf](http://otrans.3cdn.net/70bf6326c56320156a_6j5m6fupz.pdf); see also Mayo Clinic Staff, *Working During Pregnancy: Do's and Don'ts*, <http://www.mayoclinic.com/health/pregnancy/WL00035>.

<sup>8</sup> *Peristats: Kentucky*, March of Dimes, <https://bit.ly/2pR36tu>.

<sup>9</sup> See, e.g. Monique van Beukering et al., *Physically Demanding Work and Preterm Delivery: A Systematic Review and Meta-Analysis*, Int'l Archives of Occupational & Envtl. Health (2014).

<sup>10</sup> Louisville Department of Public Health and Wellness, *Pregnant Workers Health Impact Assessment*, Feb. 2019, available at: <https://louisvilleky.gov/government/center-health-equity/health-impact-assessments>.

<sup>11</sup> Brief amici curiae of 23 Pro-Life Organizations and the Judicial Education Project, *Young v. UPS*, (September 11, 2014), available at: [http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226\\_tsac\\_23\\_Pro\\_Life\\_Organizations\\_and\\_Judicial\\_Education\\_Project.pdf](http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226_tsac_23_Pro_Life_Organizations_and_Judicial_Education_Project.pdf); Brief amici curiae of Health Care Providers, et al., *Young v. UPS*, (September 11, 2014), available at: [http://www.americanbar.org/content/dam/aba/publications/supreme\\_court\\_preview/BriefsV4/12-1226\\_pet\\_amcu\\_hcp-et.al.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/BriefsV4/12-1226_pet_amcu_hcp-et.al.authcheckdam.pdf).