

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

301 21st Ave. South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

**Statement of Dina Bakst
Co-Founder & Co-President
A Better Balance**

**House Committee on Education & Labor
Subcommittees on Health, Employment, Labor, and Pensions Subcommittee & Workforce
Protections
“Expecting More: Addressing America’s Maternal and Infant Health Crisis”
January 28, 2020**

Thank you to Chair Adams, Chair Wilson, Ranking Member Byrne, and Ranking Member Walberg for the opportunity to submit a statement to the Subcommittees on Health, Employment, Labor, and Pensions Subcommittee & Workforce Protections for today’s hearing, “Expecting More: Addressing America’s Maternal and Infant Health Crisis.” A Better Balance is a national non-profit legal organization that advocates for women and families so they can care for themselves and their loved ones without sacrificing their financial security.

As today’s hearing suggests, there are myriad factors contributing to this nation’s current maternal and infant health crisis, a crisis that is disproportionately impacting Black women and women of color.ⁱ As a workers’ rights organization, we believe one key piece of the solution to this crisis, among many, is the need to ensure our workplaces are safe and supportive environments for pregnant workers and mothers.

Unfortunately, the reality is that too many pregnant women, especially women in low-wage and physically demanding jobs who are largely women of color, are forced to risk their health at work. Since our founding, we have heard from hundreds of women across the country whose employers either fired or forced them onto unpaid leave when they requested modest, temporary job adjustments to remain healthy and on the job or needed access to break time and space to express milk at work.ⁱⁱ

As we see up close through our free legal helpline and direct services work—especially in our Southern Office—this failure to accommodate pregnancy and the need to express milk often results in devastating health consequences for working women and their families.ⁱⁱⁱ In a recent health impact assessment conducted by the Louisville, Kentucky Department of Public Health and Wellness, the agency found that “Accommodating pregnant workers, upon their request, is critical for reducing poor health outcomes . . . Improving birth outcomes makes a sustainable impact for a lifetime of better health.”^{iv} The study went on to highlight that poor outcomes from a failure to receive accommodations can include “miscarriage, preterm birth, low birth weight, preeclampsia, and birth defects, among other issues.”^v

Improving health outcomes is especially crucial in the South where preterm birth rates are abysmal—in its 2019 report card, the March of Dimes gave “F” rankings only to Southern states,

including Alabama, Mississippi, and Georgia.^{vi} Tennessee and Kentucky were not far ahead, earning “D” grades.^{vii}

Such outcomes may be prevented with modest workplace accommodations.^{viii} For instance, a reduction in lifting can help “avoid preterm births and miscarriages.”^{ix} Because federal law does not provide an explicit right to reasonable accommodations, too many workers are forced to continue risking their health by working without these accommodations. Women of color are especially impacted as they are more likely to work in low-wage, physically demanding jobs.^x

The Pregnant Workers Fairness Act (H.R. 2694), which passed with bipartisan support out of the House Education and Labor Committee on January 14, 2020 is one crucial step Congress must enact in order to reduce these disparities and ensure that all pregnant workers, and especially women of color, can remain safe and healthy at work no matter their zip code. The measure requires employers to provide reasonable pregnancy accommodations unless it would impose an undue hardship on the employer.

Twenty-seven states and five cities already have these protections in place and we have begun to see the positive effects such laws can have on women’s lives.^{xi} For instance, Takirah Woods, a woman of color, worked in family services for a state agency and lives in a state with a pregnant workers fairness law. When she became pregnant in 2018, her doctor advised her not to lift over 15 pounds. When HR found out about her restriction they pushed her out onto unpaid leave. Needing her paycheck, Takirah pleaded with her doctor to lift the restriction even though it could compromise her health. However, after learning about the pregnancy accommodation law in her state and contacting A Better Balance, the employer reinstated her just two weeks later and provided her with a light duty accommodation through the rest of her pregnancy. However, women in states without such laws are forced to risk their health every day – the Pregnant Workers Fairness Act would ensure no woman is forced to choose between her job and her health.

Congress must also strengthen our laws to support breastfeeding workers. While the federal Break Time for Nursing Mothers Law requires employers to provide reasonable break time and space to express milk, an unintentional gap in the law has left millions of women without federal protections. The benefits of breastfeeding for both mother and infant are well documented. According to the surgeon general, breastfeeding reduces the risk of sudden infant death syndrome as well as other infant illnesses, and breastfed infants are “less likely to develop asthma” and become obese.^{xii} For mothers, breastfeeding can, among other benefits, lead to a “decreased risk of breast and ovarian cancers.”^{xiii} Given that more than half of women return to work within three months of giving birth, and medical providers recommend breastfeeding through a baby’s first year of life, it is crucial that women be able to have the time and space to adequately express milk.

The PUMP Act (H.R. 5592) would close the gap in the 2010 law that is currently excluding 9 million employees from coverage as well as provide clarity as to when this break time must be paid or can be unpaid, and provide nursing mothers the ability to access remedies if their rights are violated under the law. Congress must work swiftly to pass this measure into law.

Finally, Congress must pass other key workplace protections that support the health, wellbeing, and economic security of working mothers and families including the **FAMILY Act (H.R. 1185)** which would provide families with 12 weeks of paid family and medical leave to bond with a new child, care for a loved one with a serious health condition, or attend to one’s own serious medical needs, and the **Healthy Families Act (H.R. 1784)**, which would provide workers with up to 56 hours a year of paid sick time to care for loved ones with illnesses or injuries. As of 2018, an estimated 26 percent of workers nationwide did not have access to a single day of paid sick time.^{xiv} Women—especially women of color—are overrepresented in low-wage industries where workers have no paid sick days and are often fired or not paid for absences.^{xv} More than half of Latina workers and 36 percent of Black women workers do not have access to paid sick days.^{xvi} This means women of color who may be pregnant or recently welcomed a new child lack the ability to address their pre- or post-natal medical needs such as attending prenatal appointments or infant checkups.

Women in the United States now make up more than half of the workforce^{xvii} and three-quarters of women will be both pregnant and employed at some point in their working lives.^{xviii} But our workplaces and work cultures too often remain unsafe and hostile to women and mothers, especially women of color. Congress must enact workplace policies like the Pregnant Workers Fairness Act, the PUMP Act, the FAMILY Act, and the Healthy Families Act that harmonize work and childbearing — our mothers and babies lives depend on it.

ⁱ See SUNSHINE MUSE, BLACK MAMAS MATTER ALLIANCE, SETTING THE STANDARD FOR HOLISTIC CARE OF AND FOR BLACK WOMEN 3 (Apr. 2018) (citing CTRS. FOR DISEASE CONTROL AND PREVENTION, HEALTH UNITED STATES, 2016: Table 10, INFANT, NEONATAL, POST-NEONATAL, FETAL, AND PERINATAL MORTALITY RATES, BY DETAILED RACE AND HISPANIC ORIGIN OF MOTHER: UNITED STATES, SELECTED YEARS 1983–2014 (2016)), <https://www.cdc.gov/nchs/data/hus/2016/010.pdf>), http://blackmamasmatter.org/wp-content/uploads/2018/04/BMMA_BlackPaper_April-2018.pdf; see also Linda Villarosa, *Why America’s Black Mothers and Babies are in a Life-or-Death Crisis*, N.Y. TIMES, Apr. 11, 2018, <https://www.nytimes.com/2018/04/11/magazine/black-mothers-babies-death-maternal-mortality.html>.

ⁱⁱ For a snapshot of these workers’ stories, see A Better Balance, *The Women Who Inspired the Movement for the Pregnant Workers Fairness Act*, <https://www.abetterbalance.org/resources/the-women-who-inspired-the-movement-for-the-pregnant-workers-fairness-act/> (last updated on Jan. 13, 2020).

ⁱⁱⁱ See Jessica Silver-Greenberg & Natalie Kitroeff, *Miscarrying at Work: The Physical Toll of Pregnancy Discrimination*, N.Y. TIMES, Oct. 21, 2018, <https://www.nytimes.com/interactive/2018/10/21/business/pregnancy-discrimination-miscarriages.html> (highlighting A Better Balance client Tasha Murrell who miscarried while working at a warehouse in Tennessee after her manager denied her medically-advised lifting restriction).

^{iv} LOUISVILLE DEP’T OF PUBLIC HEALTH AND WELLNESS, PREGNANT WORKERS HEALTH IMPACT ASSESSMENT 2019, at 7 (2019), https://louisvilleky.gov/sites/default/files/health_and_wellness/che/pregnant_workers_hia_final_02182019.pdf.

^v *Id.*

^{vi} 2019 March of Dimes Report Card, MARCH OF DIMES, <https://www.marchofdimes.org/mission/reportcard.aspx>

^{vii} *Id.*

viii LOUISVILLE DEP'T OF PUBLIC HEALTH AND WELLNESS, SUMMARY OF THE PREGNANT WORKERS HEALTH IMPACT ASSESSMENT (2019),

https://louisvilleky.gov/sites/default/files/health_and_wellness/che/pregnant_workers_hia_one_pager.pdf.

ix *Id.*

x See A Better Balance & Nat'l Women's Law Ctr., *It Shouldn't Be A Heavy Lift: Fair Treatment for Pregnant Workers* 11 (2013), <https://www.abetterbalance.org/resources/it-shouldnt-be-a-heavy-lift/>.

xi A BETTER BALANCE, PREGNANCY ACCOMMODATIONS IN STATES & CITIES (2019),

https://www.abetterbalance.org/wp-content/uploads/2019/01/PWFA_StateList.pdf.

xii Office of the Surgeon General, *Breastfeeding: Surgeon General's Call to Action Fact Sheet*

<https://www.hhs.gov/surgeongeneral/reports-and-publications/breastfeeding/factsheet/index.html>.

xiii *Id.*

xiv U.S. BUREAU OF LAB. STATISTICS, *Nat'l Compensation Survey, March 2018*, "Table 32. Leave benefits: Access, civilian workers" (March 2018),

<https://www.bls.gov/ncs/ebs/benefits/2018/ownership/civilian/table32a.pdf>. The BLS does not collect data on paid safe time access, but the percentage of workers who have access to safe time is *substantially* lower than the percentage of workers with access to sick time.

xv Women are nearly two-thirds of minimum-wage workers, and the vast majority of women earning minimum wages receive *zero* paid sick days. See THE SHRIVER REPORT, "Facts and Figures from The Shriver Report: A Woman's Nation Pushes Back from the Brink" (Jan. 12, 2014) [hereinafter THE SHRIVER REPORT], <http://shriverrreport.org/a-womans-nation-pushes-back-from-the-brink-facts-and-figures>.

xvi INST. FOR WOMEN'S POL'Y RESEARCH, *Briefing Paper: Paid Sick Days Access and Usage Rates Vary by Race/Ethnicity, Occupation, and Earnings* (2016) [hereinafter INST. FOR WOMEN'S POL'Y RESEARCH, *Briefing Paper*], <https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/B356.pdf>.

xvii Amara Omeokwe, *Women Overtake Men as Majority of U.S. Workforce*, WALL ST. JOURNAL (Jan. 10, 2020), <https://www.wsj.com/articles/women-overtake-men-as-majority-of-u-s-workforce-11578670615>.

xviii ALEXANDRA CAWTHORNE & MELISSA ALPERT, CTR. FOR AM. PROGRESS, LABOR PAINS: IMPROVING EMPLOYMENT AND ECONOMIC SECURITY FOR PREGNANT WOMEN AND NEW MOTHERS 2 (2009), <https://www.americanprogress.org/issues/women/report/2009/08/03/6599/labor-pains/>