

February 17, 2021

Re. Pregnant Workers Fairness Act

Dear Member of Congress:

As organizations committed to promoting the health and economic security of our nation's families, we urge you to support the Pregnant Workers Fairness Act, a crucial maternal and infant health measure. This bipartisan legislation promotes healthy pregnancies and economic security for pregnant workers and their families and strengthens the economy.

In the last few decades, there has been a dramatic demographic shift in the workforce. Not only do women now make up almost half of the workforce, but there are more pregnant workers than ever before and they are working later into their pregnancies. The simple reality is that some pregnant workers—especially those in physically demanding jobs—will have a medical need for a temporary job-related accommodation in order to maintain a healthy pregnancy. Yet, too often, instead of providing pregnant workers with an accommodation, employers will fire or push them onto unpaid leave, depriving them of a paycheck and health insurance at a time when it may be most needed.

Additionally, discrimination affects pregnant workers across race and ethnicity, but women of color and immigrants may be at particular risk. Latinas, Black women and immigrant women are more likely to hold certain inflexible and physically demanding jobs that can present specific challenges for pregnant workers, such as cashiers, home health aides, food service workers, and cleaners, making reasonable accommodations on the job even more important, and loss of wages and health insurance due to pregnancy discrimination especially challenging. American families and the American economy depend on women's income: we cannot afford to force pregnant workers out of work.

In 2015, in *Young v. United Parcel Service*, the Supreme Court held that a failure to make accommodations for pregnant workers with medical needs will sometimes violate the Pregnancy Discrimination Act of 1978 (PDA). Yet, even after *Young*, pregnant workers are still not getting the accommodations they need to stay safe and healthy on the job and employers lack clarity as to their obligations under the law. The Pregnant Workers Fairness Act will provide a clear, predictable rule: employers must provide reasonable accommodations for limitations arising out of pregnancy, childbirth, or related medical conditions, unless this would pose an undue hardship.

The Pregnant Workers Fairness Act is modeled after the Americans with Disabilities Act (ADA) and offers employers and employees a familiar reasonable accommodation framework to follow. Under the ADA, workers with disabilities enjoy clear statutory protections and need not prove how other employees are treated in order to obtain necessary accommodations. Pregnant workers deserve the same clarity and streamlined process and should not have to ascertain how their employer treats others in order to understand their own accommodation rights, as the Supreme Court's ruling currently requires.

Evidence from states and cities that have adopted laws similar to the Pregnant Workers Fairness Act suggests that providing this clarity reduces lawsuits and, most importantly, helps ensure that workers can obtain necessary reasonable accommodations in a timely manner, which keeps pregnant workers healthy and earning an income when they need it most. Workers should not have to choose between providing for their family and maintaining a healthy pregnancy, and the Pregnant Workers Fairness Act would ensure that all those working for covered employers would be protected.

The need for the Pregnant Workers Fairness Act is recognized across ideological and partisan lines. Thirty states and D.C. have adopted pregnant worker fairness measures with broad, and often unanimous, bipartisan support. Twenty-five of those laws have passed within the last seven years. These states include: Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Minnesota, Nebraska, New Mexico, Nevada, New Jersey, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, West Virginia, Vermont, Virginia, and Washington. Lawmakers have concluded that accommodating pregnant workers who need it is a measured approach grounded in family values and basic fairness.

The Pregnant Workers Fairness Act is necessary because it promotes long-term economic security and workplace fairness. When accommodations allow pregnant workers to continue to work, they can maintain income and seniority, while forced leave sets new parents back with lost wages and missed advancement opportunities. When pregnant workers are fired, not only do they and their families lose critical income, but they must fight extra hard to re-enter a job market that is especially brutal on those who are pregnant and unemployed.

The Pregnant Workers Fairness Act is vital because it supports healthy pregnancies. The choice between risking a job and risking the health of a pregnancy is one no one should have to make. Pregnant workers who cannot perform some aspects of their usual duties without risking their own health or the health of their pregnancy, but whose families cannot afford to lose their income, may continue working under dangerous conditions. There are health consequences to pushing pregnant workers out of the workforce as well. Stress from job loss can increase the risk of having a premature baby and/or a baby with low birth weight. In addition, if workers are not forced to use their leave during pregnancy, they may have more leave available to take following childbirth, which in turn facilitates lactation, bonding with and caring for a new child, and recovering from childbirth.

For all of these reasons, we urge you to support the Pregnant Workers Fairness Act.

We also welcome the opportunity to provide you with additional information. For more details, please contact Dina Bakst (dbakst@abetterbalance.org), Emily Martin (emartin@nwlc.org), Vania Leveille (vleveille@aclu.org), or Michelle McGrain (mmcgrain@nationalpartnership.org).

Sincerely,

A Better Balance
American Civil Liberties Union
National Partnership for Women & Families
National Women's Law Center

1,000 Days
9to5
Advocates for Youth
AFL-CIO
Alaska Breastfeeding Coalition
All-Options
American Academy of Pediatrics
American Association of University Women (AAUW)
American College of Obstetricians and Gynecologists
American Federation of Teachers
Asian Pacific American Labor Alliance, AFL-CIO
Association of Farmworker Opportunity Programs
Association of Maternal & Child Health Programs
Autistic Self Advocacy Network
Back Mamas Matter Alliance
Bloom, Baby! Birthing Services
Breastfeeding Coalition of Delaware
Bread For the World
Breastfeeding Hawaii
BreastfeedLA
California Women's Law Center
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Center for American Progress
Center for Law and Social Policy (CLASP)
Center for LGBTQ Economic Advancement & Research
Center for Parental Leave Leadership
Center for Public Justice
Chosen Vessels Midwifery Services
Church World Service
CLUW
Coalition for Restaurant Safety & Health
Coalition of Labor Union Women (CLUW)
Coalition on Human Needs
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
Connecticut Women's Education and Legal Fund (CWEALF)
DC Dorothy Day Catholic Worker
Equality Ohio
Equal Pay Today
Every Texan
Family Equality
First Focus Campaign for Children
Futures Without Violence
Gender Equality Law Center
Gender Justice
Grandmothers for Reproductive Rights (GRR!)
Health Care For America Now

Healthy and Free Tennessee
Healthy Mothers, Healthy Babies Coalition of Georgia
Hispanic Federation
Hoosier Action
Human Rights Watch
ICNA CSJ
Indiana Chapter of the American Academy of Pediatrics
Indiana Institute for Working Families
Indianapolis Urban League
Interfaith Workers Justice
Justice for Migrant Women
Kansas Breastfeeding Coalition
KWH Law Center for Social Justice and Change
La Leche League Alliance
LatinoJustice PRLDEF
Legal Aid at Work
Legal Momentum, The Women's Legal Defense and Education Fund
Legal Voice
Mabel Wadsworth Center
Maine Women's Lobby
March of Dimes
Maternal Mental Health Leadership Alliance
MCCOY (Marion County Commission on Youth)
Midwives Alliance of Hawaii
Minus 9 to 5
Mississippi Black Women's Roundtable
Mom Congress
MomsRising
Monroe County NOW
Mother Hubbard's Cupboard
MS Black Women's Roundtable & MS Women's Economic Security Initiative
NARAL Pro-Choice America
National Advocacy Center of the Sisters of the Good Shepherd
National Asian Pacific American Women's Forum (NAPAWF)
National Association of Social Workers NH Chapter
National Advocates for Pregnant Women
National Birth Equity Collaborative
National Center for Law and Economic Justice
National Center for Lesbian Rights
National Coalition for the Homeless
National Coalition of 100 Black Women, Inc. Central Ohio Chapter
National Consumers League
National Council for Occupational Safety and Health (National COSH)
National Council of Jewish Women
National Council of Jewish Women Cleveland
National Council of Jewish Women (NCJW), Atlanta Section

National Education Association
National Employment Law Project
National Employment Lawyers Association
National Health Law Program
National Network to End Domestic Violence
National Organization for Women
National WIC Association
NETWORK Lobby for Catholic Social Justice
New Mexico Breastfeeding Task Force
New Working Majority
North Carolina Justice Center
Nurse-Family Partnership
Ohio Coalition for Labor Union Women
Ohio Domestic Violence Network
Ohio Federation of Teachers
Ohio Religious Coalition for Reproductive Choice
Ohio Women's Alliance
Partnership for America's Children
Peirce Consulting LLC
Philadelphia Coalition of Labor Union Women Philly CLUW
Philaposh
Physicians for Reproductive Health
Planned Parenthood Federation of America
PowHer New York
Pray First Mission Ministries
Prevent Child Abuse NC
RESULTS
SisterReach
Solutions for Breastfeeding
Speaking of Birth
The Leadership Conference on Civil and Human Rights
The Little Timmy Project
The National Domestic Violence Hotline
The Ohio Women's Public Policy Network
The Women and Girls Foundation of Southwest Pennsylvania
The Women's Law Center of Maryland
The Zonta Club of Greater Queens
TIME'S UP Now
U.S. Breastfeeding Committee
Ujjima Inc: The National Center on Violence Against Women in the Black Community
UltraViolet
Union for Reform Judaism
United Electrical, Radio and Machine Workers of America (UE)
United Food and Commercial Workers International Union (UFCW)
United Spinal Association
United Steelworkers

United Today, Stronger Tomorrow
Universal Health Care Action Network of Ohio
Voices for Progress
Wabanaki Women's Coalition
William E. Morris Institute for Justice (Arizona)
Women and Girls Foundation of Southwest Pennsylvania
Women Employed
Women of Reform Judaism
Women's Fund of Greater Chattanooga
Women's Fund of Rhode Island
Women's Fund of Rhode Island
Women's Law Project
Women's Media Center
Women's Rights and Empowerment Network
Women4Change
Worksafe
WV Breastfeeding Alliance
YWCA Greater Cincinnati
YWCA Mahoning Valley
YWCA McLean County
YWCA USA
ZERO TO THREE