The Pregnant Workers Fairness Act

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Despite existing protections, pregnant workers in the United States still face discrimination. Pregnant workers are too often forced out of their jobs and denied reasonable accommodations that would enable them to continue working and supporting their families. The Pregnant Workers Fairness Act would help end this discrimination and promote healthy pregnancies and the economic security of pregnant women and their families.

Supporting Pregnant Women on the Job

The Pregnant Workers Fairness Act would help prevent employers from forcing pregnant women out of the workplace and help ensure that employers provide reasonable accommodations to pregnant women who want to continue working.

Sponsored by Senators Casey (D – Penn.), Shaheen (D – N.H.) and Ayotte (R – N.H.) and Representative Nadler (D – N.Y.), the Pregnant Workers Fairness Act would:

- Clarify that employers must make reasonable accommodations for pregnant workers affected by a known limitation related to pregnancy, childbirth or related medical conditions.
- Require an interactive process between employers and pregnant workers to determine appropriate reasonable accommodations, similar to the Americans with Disabilities Act.
- Provide an exemption for businesses if an accommodation imposes an undue hardship on an employer.
- Protect pregnant workers from retaliation, coercion, intimidation, threats or interference if they request or use an accommodation.
- Apply to employers with 15 or more employees and provide protections for both job applicants and employees.

Workplace Discrimination Continues to Harm Pregnant Women and Their Families

The Pregnancy Discrimination Act of 1978 (PDA) outlawed pregnancy discrimination by making clear that discrimination on the basis of pregnancy, childbirth or related medical conditions is illegal sex discrimination. The PDA also established that pregnant workers have to be treated the same, and provided with the same benefits, as non-pregnant workers who are similar in their ability or inability to work. Despite this, employers often refuse to provide pregnant workers reasonable accommodations, such as needing to carry a water bottle or sit while at work.
Plenty of women are able to work through their pregnancies without any need for accommodations, but, too often, pregnant workers who need accommodations are forced out of their jobs unnecessarily when minor adjustments would enable them to keep working. For example:

- An activity director at a nursing home in Valparaiso, Indiana, was terminated because she required a reasonable accommodation for some physical aspects of her job to prevent having another miscarriage.¹
- A retail worker in Salina, Kansas, was fired merely because she needed to carry a water bottle to stay hydrated and prevent bladder infections.²
- A hardware assembler in Mt. Hope, Ohio, was terminated after her doctor recommended that she not work more than an eight-hour shift and not lift more than 20 pounds due to gestational diabetes and the threat of preterm labor.³

Recently, the U.S. Supreme Court held in *Young v. United Parcel Service* that failing to accommodate pregnant workers with medical needs can violate the PDA. Although the decision was an important victory, the need for the Pregnant Workers Fairness Act is as compelling as ever. Under *Young*, a pregnant worker’s rights will often depend on whether an employer already accommodates a large percentage of non-pregnant workers while denying accommodations to a large percentage of pregnant workers. Therefore, pregnant women may not be protected and may face uncertainty about their rights.

The Pregnant Workers Fairness Act is a Badly Needed Solution

- **The Pregnant Workers Fairness Act would promote family economic security.** Nearly 85 percent of women will become mothers at some point in their working lives.⁴ By continuing to work, pregnant women continue to generate income that is integral to their families’ economic security while gaining seniority on the job. When pregnant women are fired, not only do they and their families lose critical income, but they also struggle to re-enter a job market that is especially brutal for the unemployed, mothers, and, in particular, pregnant women. To make matters worse, new mothers are faced with significant hiring biases.⁵

- **The Pregnant Workers Fairness Act would promote healthy pregnancies.** Pregnant women who are denied reasonable accommodations must either risk their own health and the health of their pregnancies or give up critical jobs and income. They also risk losing employer-sponsored health insurance, which compromises their ability to obtain quality prenatal and post-partum care. In contrast, women who are able to continue working during pregnancy may be able to take longer periods of leave following childbirth which, in turn, facilitates breastfeeding, bonding with and caring for a new child, and recovering from childbirth.
The Pregnant Workers Fairness Act would build on state and local progress. States and cities across the country recognize the benefits of helping ensure pregnant women can keep working. Fourteen states and five cities have passed laws requiring employers to provide reasonable accommodations to pregnant workers. Many of these laws have passed with bipartisan or unanimous support. A federal law would ensure that workers nationwide have these same protections.

It is Time for Congress to Protect Pregnant Workers

The Pregnant Workers Fairness Act would create a clear, predictable rule: Employers must provide reasonable accommodations for limitations arising out of pregnancy, childbirth or related medical conditions, unless doing so would pose an undue hardship. And pregnant workers may request such accommodations without fear of punishment.

Support for a law like the Pregnant Workers Fairness Act is nearly universal. Ninety-five percent of Americans believe that it is reasonable for employers to provide minor accommodations to workers who become pregnant, and support transcends partisan lines overwhelmingly.

It is time for Congress to recognize what is at stake for pregnant workers and their families by supporting and ultimately passing the Pregnant Workers Fairness Act.

1 Serednj v. Beverly Healthcare, 656 F.3d 540 (7th Cir. 2011).