



the work and family legal center

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Why the Pregnant Workers Fairness Act is Good for Business

No woman in the United States should have to choose between the health of her pregnancy and her job. Yet, this is happening all too often around the country. The Pregnant Workers Fairness Act ([H.R. 2694](#)) would ensure that pregnant workers are given fair treatment on the job, provide clearer expectations for employers, and will boost the 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 Pregnant Workers Fairness Act (PWFA) 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 Fairness Act Will Support Businesses By Clarifying Employers' Obligations to Pregnant Workers

- The PWFA **will provide much needed clarity, leading to upfront and informal resolutions** among employers and employees in ways current 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-six states**, including Kentucky (passed in 2019), South Carolina (passed in 2018), West Virginia, Illinois, Nebraska, and Utah already require certain employers to provide accommodations to pregnant employees.¹
 - **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.”²

The Pregnant Workers Fairness Act Will Help Boost Morale and the Bottom Line

- The PWFA will increase employee retention and morale, and reduce employers' turnover and training costs, which can be quite high.
- The law would also help employers avoid costly litigation by providing clear guidelines so they can anticipate their responsibilities.
 - At least two states with pregnant worker fairness laws have reported a reduction



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- in litigation since the laws went into effect and other states have seen no increase.³
- 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 when a baby is born prematurely.⁴

Business Groups Across the Country Have Supported State-Level Pregnant Worker Fairness Laws

- In Kentucky, Greater Louisville Inc., the metro Louisville, Kentucky chamber of commerce, outspokenly supported the state legislation that passed in 2019, testifying that the measure **“balances the need to support women in the workplace while clearly and concisely defining what constitutes reasonable accommodations and when an employer is and is not obligated to provide them.”**⁵
- In South Carolina, after a state-level pregnant workers fairness law passed, one business publication said in praising the new law that it creates **“clearer expectations”** as to employer obligations and “employers have learned that it **makes good business sense** to create a work environment where expectant and nursing mothers feel valued and respected.”⁶
- In Utah, Angie Osguthorpe, president of the **Davis Chamber of Commerce**, said a pregnant workers bill, which eventually became law, had her organization's full support. “We not only think it's the right thing to do, but we think that keeping women in the workforce is smart.”⁷
- One business lobby in another state with 4,000 employer members said they **“strongly support reasonable workplace accommodations for pregnant women**. Responsible employers have been providing such accommodations for years as part of comprehensive strategies to retain qualified workers.”⁸

For more information on this legislation, please contact Dina Bakst at (212) 430-5982 ext. 153 or dbakst@abetterbalance.org.

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

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

³ 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.

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

⁵ Hearing on S.B. 18 Before the S. Comm. on the Judiciary, 2019 Gen. Assemb., Reg. Sess. (Ky. Feb. 14, 2019) (testimony of Iris Wilbur, Director of Government Affairs at Greater Louisville Inc.), <https://www.ket.org/legislature/?archive&nola=WGAOS+020057&part=2>.

⁶ Jada Jacobs, *New South Carolina Law Protects Pregnant and Nursing Employees* (June 20, 2018), <https://www.propelhr.com/blog/new-sc-law-protects-pregnant-employees-and-nursing-mothers>.

⁷ Editorial, *Utah needs to get right with women, accommodate breastfeeding in the workplace*, Standard Examiner (Feb. 25, 2016), https://www.standard.net/opinion/our-view/utah-needs-to-get-right-with-women-accommodate-breastfeeding-in/article_be70363c-d663-5722-b7cb-9381c4fcb1f3.html.

⁸ Brad MacDougall, *AIM, Advocates Reach Deal on Protections for Pregnant Workers*, AIMBlog (Mar. 1, 2017), <https://blog.aimnet.org/aim-issueconnect/aim-lawmakers-advocates-reach-deal-on-protections-for-pregnant-workers>.