

# The Pregnant Workers Fairness Act

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Despite existing protections against discrimination, pregnant workers in this country still face discrimination every day. Pregnant workers are 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 the health and economic security of pregnant women, their babies and their families.

## Workplace Discrimination Continues to Harm Pregnant Women and Their Families

The Pregnancy Discrimination Act of 1978 (PDA) outlawed pregnancy discrimination, and Congress made it clear when it passed the PDA that sex discrimination includes discrimination based on pregnancy, childbirth or related medical conditions. However, employers often refuse to provide reasonable accommodations for pregnant workers, and courts have interpreted existing legal protections narrowly.

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**A pregnant retail worker in Salina, Kansas, was fired merely because she needed to carry a water bottle to stay hydrated and prevent bladder infections.**

— **Wiseman v. Wal-Mart Stores, Inc., No. 08-1244-EFM, 2009 WL 1617669 (D. Kan. June 9, 2009).**

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Plenty of women are able to work through their pregnancies without any alteration to their jobs, but **too often pregnant workers are forced out of their jobs unnecessarily when reasonable accommodations would enable them to keep working.** For example:

- ▶ A delivery truck driver in Landover, Maryland, was forced to take unpaid leave because she was denied the same light duty routinely offered to other workers with physical limitations.<sup>1</sup>
- ▶ 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.<sup>2</sup>

## The Pregnant Workers Fairness Act is Badly Needed

**The Pregnant Workers Fairness Act would 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.**

Modeled on the Americans with Disabilities Act, the Pregnant Workers Fairness Act would ensure the same workplace protections for women with pregnancy-related limitations as the protections already in place for workers with similar limitations.

By strengthening existing laws, the legislation would:

- ▶ **Promote family economic security.** Pregnancy discrimination causes significant economic harm to millions of pregnant women and their families every year, especially low-income and single mothers. In this difficult economy, workers cannot afford to be unnecessarily and unfairly pushed out of – or terminated from – their jobs because of pregnancy and childbirth.
  - ▶ Three-quarters of women entering the workforce will be pregnant and employed at some point.<sup>3</sup> Among women who had a child during a year-long period in 2010 (the most recent data available), 62 percent were in the labor force.<sup>4</sup> In some states, the proportion of women who gave birth and worked was even higher; nearly three-quarters of women in Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin, for example, who gave birth also worked. California had the greatest number of pregnant workers and new moms in the labor force, with 287,872 women. Moreover, in every single state in 2010, the majority of women who gave birth were also in the labor force. The data confirm what tens of millions of women, families, workers and employers throughout the country have long known: A significant number of women in the United States work while pregnant.
  - ▶ By continuing to work, pregnant women maintain important income and seniority at work.
  - ▶ When pregnant women are fired, not only do they and their families lose critical income, but they 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.<sup>5</sup>
- ▶ **Protect the health of women and children.** When pregnant women are denied reasonable accommodations, many have no choice but to continue in their jobs under unhealthy conditions, risking their own health as well as that of their babies.
  - ▶ For women who are forced out of the workforce because of their pregnancies, the stress associated with job loss can be devastating because it increases the risk of having a premature baby and/or a baby with low birth weight.<sup>6</sup>
  - ▶ Women who work 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.
- ▶ **Benefit businesses.** Businesses benefit when their pregnant workers can continue in their jobs. Employers benefit from employee retention, improved morale, increased productivity and reduced training costs.<sup>7</sup> Turnover alone can cost an employer between 50 to 150 percent of an employee's annual pay.<sup>8</sup>

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<sup>1</sup> *Young v. United Parcel Service, Inc.*, No. DKC 08-2586, 2011 WL 665321 (D. Md. 2011).

<sup>2</sup> *Serednyj v. Beverly Healthcare*, 656 F.3d 540 (7th Cir. 2011).

<sup>3</sup> Cawthorne, A., & Alpert, M. (2009, August 3). *Labor Pains: Improving Employment and Economic Security for Pregnant Women and New Mothers*. Center for American Progress Publication. Retrieved on 30 April 2012, from [http://www.americanprogress.org/issues/2009/08/pregnancy\\_support.html](http://www.americanprogress.org/issues/2009/08/pregnancy_support.html)

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4 U.S. Census Bureau. (2010). *American Community Survey 1 Year Estimates, Geographies: All States within United States, Table B13012: WOMEN 16 TO 50 YEARS WHO HAD A BIRTH IN THE PAST 12 MONTHS BY MARITAL STATUS AND LABOR FORCE STATUS*

Universe: Women 16 to 50 years, Retrieved 20 August 2012, from

[http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_10\\_1YR\\_B13012&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_1YR_B13012&prodType=table). National Partnership for Women & Families calculation based on the total number of unmarried and married women who have had a birth in the past 12 months who are in the labor force divided by the total number of women who have had a birth in the past 12 months.

<sup>5</sup> Corell, S. J., Benard, S. & Paik, I. (2007, March). Getting a Job: Is There a Motherhood Penalty? *American Journal of Sociology*, (112)5, pp. 1297-1339. Retrieved on 5 May 2012, from <http://gender.stanford.edu/sites/default/files/motherhoodpenalty.pdf>

<sup>6</sup> March of Dimes. (2012, January). *Stress and Pregnancy*. Retrieved on 5 May 2012, from [http://www.marchofdimes.com/pregnancy/lifechanges\\_indepth.html](http://www.marchofdimes.com/pregnancy/lifechanges_indepth.html)

<sup>7</sup> Job Accommodation Network. (2011, September 1). *Workplace Accommodations: Low Cost, High Impact* (p. 3). Retrieved 7 May 2012, from <http://www.jan.wvu.edu/media/LowCostHighImpact.doc>. The Job Accommodation Network is a service of the U.S. Department of Labor's Office of Disability Employment Policy (ODEP).

<sup>8</sup> Hochschild, A.R. (1997). *The Time Bind: When Work Becomes Home and Home Becomes Work*, 31 (1997). New York, NY: Holt Paperbacks. Employees who quit cost their employers \$40,000 each, on average, in hiring and training expenditures.

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The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at [www.NationalPartnership.org](http://www.NationalPartnership.org).

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