

## FACT SHEET:

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### **Pregnancy Discrimination in New York State (S8/A4272)**

**The pregnancy discrimination bill A4272<sup>1</sup> would strengthen the New York State Human Rights Law by providing an affirmative, proactive right to pregnant employees so they can stay healthy and employed when they need a minor accommodation at work.**

#### **New York Needs Strong Measures to Support Women in the Workforce**

- New York, which has one of the worst female labor force participation rates in the country,<sup>2</sup> must work to increase the participation of women, including pregnant women, in the workforce.
- Three-quarters of women entering the workforce in our country will be pregnant and employed at some point in their lives.<sup>3</sup> Some of these women—especially those in physically strenuous jobs—will face a conflict between their duties at work and the demands of pregnancy.
- Pregnant women are pushed out of their jobs and often treated worse than other employees with similar limitations because the law does not explicitly guarantee reasonable accommodations for pregnancy and childbirth.
  - A pregnant retail worker was rushed to the emergency room when she fainted on the job because her boss would not let her drink water.
  - A pregnant cashier could not get a stool to sit on and had to spend 8-10 hour shifts on her feet.
  - A Rochester woman was fired from her retail job when she brought in a doctor's note indicating a modest lifting restriction—she wound up homeless while pregnant because she could no longer afford her rent.<sup>4</sup>

#### **This Bill Would Clarify that the New York State Human Rights Law Protects Pregnant Women Who Need Minor Assistance at Work**

- A4272 would explicitly require employers to provide a reasonable accommodation for pregnancy-related conditions and childbirth, unless doing so would create an undue hardship. This law is necessary to provide a proactive tool for pregnant women who do not have the time or bargaining power to use complex existing legal channels.
- The proposed law would provide certainty for employees and employers—preventing problems before they arise.

#### **Need for Greater Legal Clarity Has Been Recognized Across the Country**

- California's decade-old law guaranteeing pregnant women reasonable accommodations in the workplace has been used countless times to help workers stay healthy and keep their jobs.<sup>5</sup>
- Connecticut, Delaware, Hawaii, Iowa, Louisiana, Alaska, Texas, Illinois, Minnesota, West Virginia, New Jersey, Maryland, New York City and four other cities also explicitly require certain employers to provide some accommodations to pregnant employees.<sup>6</sup>
- Proposed federal legislation (the Pregnant Workers Fairness Act) has garnered broad support from over 100 organizations<sup>7</sup> and has over 100 cosponsors in the House of Representatives.<sup>8</sup>

#### **Legislation Will Benefit Working Women, their Families, their Employers and the Public**

- Women who need income but lack accommodations are often forced to continue working under unhealthy conditions, risking their own health as well as the health of their babies.<sup>9</sup>

- Stress from job loss can increase the risk of a premature baby and/or a baby with low birth weight;<sup>10</sup> risks that may be avoided with a simple modification to keep a woman on the job.
- The March of Dimes estimates that reasonable accommodations for pregnancy-related conditions could create healthcare savings of over \$1 billion annually for New York State by preventing premature births.<sup>11</sup>
- A4272 will promote women's economic security during a critical time that is often filled with financial hardship,<sup>12</sup> and would save taxpayers money in the form of unemployment insurance and other public benefits.
- Employers benefit too, from reduced turnover and increased productivity.<sup>13</sup> Legislation would provide clarity so employers can anticipate their responsibilities and avoid costly litigation.
- After California passed similar legislation, litigation of pregnancy cases actually decreased, even as pregnancy discrimination cases around the country were increasing.<sup>14</sup> The Hawaii Civil Rights Commission recently reported a similar reduction in pregnancy discrimination complaints and litigation after enactment.

**For more information on this legislation, please contact Dina Bakst at 212-430-5982 or [dbakst@abetterbalance.org](mailto:dbakst@abetterbalance.org).**

<sup>1</sup> Bill text available at: <http://open.nysenate.gov/legislation/bill/A4272-2015>.

<sup>2</sup> New York Women's Foundation, *Statement and Recommendations on The Economic Status of Women in New York State*, (June 2008), pg. 4, [http://nywf.org/wp-content/uploads/2012/05/NYEcon\\_Status\\_Report\\_Statement.pdf](http://nywf.org/wp-content/uploads/2012/05/NYEcon_Status_Report_Statement.pdf).

<sup>3</sup> Alexandra Cawthorne & Melissa Alpert, *Labor Pains: Improving Employment and Economic Security for Pregnant Women and New Mothers*, (Aug. 2009), [http://www.americanprogress.org/issues/2009/08/pregnancy\\_support.html](http://www.americanprogress.org/issues/2009/08/pregnancy_support.html).

<sup>4</sup> Todd Clausen, "Fairport woman: I was fired for being pregnant," *Democrat & Chronicle* (Mar. 4, 2015), available at: <http://www.democratandchronicle.com/story/money/business/2015/03/04/betzaida-cruz-cardona-pregnancy-discrimination-womens-equality-act/24381953/>.

<sup>5</sup> Noreen Farrell, *Expecting A Baby, Not a Lay-Off: Executive Summary* (May 2012), <http://www.equalrights.org/media/2012/PWFA-ExecSummary.pdf>.

<sup>6</sup> ABB, State and Local Laws Protecting Pregnant Workers, <http://www.abetterbalance.org/web/ourissues/fairness-for-pregnant-workers/310>.

<sup>7</sup> Pregnant Workers Fairness Act Letter of Support (May 23, 2013), [http://www.nationalpartnership.org/site/DocServer/Pregnant\\_Workers\\_Fairness\\_Act\\_Sign-On\\_Letter\\_1-14-2013.pdf?docID=11681](http://www.nationalpartnership.org/site/DocServer/Pregnant_Workers_Fairness_Act_Sign-On_Letter_1-14-2013.pdf?docID=11681).

<sup>8</sup> For more information, <http://www.govtrack.us/congress/bills/113/hr1975>.

<sup>9</sup> Renee Bischoff & Wendy Chavkin, *The Relationship between Work-Family Benefits and Maternal, Infant and Reproductive Health: Public Health Implications and Policy Recommendations*, (June 2008), pg. 13-17, [http://otrans.3cdn.net/70bf6326c56320156a\\_6j5m6fupz.pdf](http://otrans.3cdn.net/70bf6326c56320156a_6j5m6fupz.pdf); see also Mayo Clinic Staff, *Working During Pregnancy: Do's and Don'ts*, <http://www.mayoclinic.com/health/pregnancy/WL00035>; see also Joanna L. Grossman, *Pregnancy, Work, and the Promise of Equal Citizenship*, 98 *Geo. L.J.* 567, 582-84 (March 2010).

<sup>10</sup> March of Dimes, *Stress and Pregnancy* (January 2008/January 2010), [http://www.marchofdimes.com/pregnancy/lifechanges\\_indepth.html](http://www.marchofdimes.com/pregnancy/lifechanges_indepth.html).

<sup>11</sup> March of Dimes: New York Chapter, *Protect New York's Moms From Pregnancy Discrimination*, available at: [http://www.marchofdimes.com/pdf/newyork/Pregnancy\\_Discrimination\\_Fact\\_Sheet.pdf](http://www.marchofdimes.com/pdf/newyork/Pregnancy_Discrimination_Fact_Sheet.pdf).

<sup>12</sup> Almost half of all babies born in the United States are born to families receiving WIC food supplements. See Kimberly Brown, *Shocking Need: American Kids Go Hungry*, ABC News, (August 24, 2011), [http://abcnews.go.com/US/hunger\\_at\\_home/hunger-home-american-children-malnourished/story?id=14367230#.Tu-55mC4Iy4](http://abcnews.go.com/US/hunger_at_home/hunger-home-american-children-malnourished/story?id=14367230#.Tu-55mC4Iy4).

<sup>13</sup> Job Accommodation Network, *Workplace Accommodations: Low Cost, High Impact*, pg. 3, <http://www.jan.wvu.edu/media/LowCostHighImpact.doc>.

<sup>14</sup> Equal Rights Advocates, *Expecting A Baby, Not A Lay-Off*, pg. 25, <http://www.equalrights.org/media/2012/ERA-PregAccomReport.pdf>.