

The Massachusetts Pregnant Workers Fairness Act

Because getting pregnant shouldn't mean losing your job

Sponsors: Rep. David M. Rogers (H. 3680), Senator Joan B. Lovely (S. 1023)

Massachusetts Pregnant Workers Fairness Act (PWFA): Eliminating Pregnancy Discrimination

Pregnant workers around the Commonwealth are too often forced to choose between a healthy pregnancy and their jobs – with serious consequences for them and their families – for lack of something as simple as being able to sit down or take extra bathroom breaks.

- One pregnant woman was not allowed to take breaks to sit—even after she fainted multiple times at her job.¹
- A pregnant laundry worker lost her baby when her overtime was increased rather than decreased at her request.²
- A pregnant gas station manager wound up on public assistance because she wasn't allowed to sit.

The PWFA will close gaps in existing law by setting forth clear rules about an employer's obligation to provide, and what constitutes, a reasonable accommodation for pregnancy and related conditions. It will ensure that employers have guidelines to follow and pregnant women are treated fairly.

Massachusetts Needs Strong Measures to Support Women in the Workforce

- Over half of all pregnant women and new mothers in Massachusetts are in the labor force and earning income to support their families.³
- Three-quarters of women entering the workforce in our country will be pregnant and employed at some point in their lives.⁴ Some of these women—especially those in physically strenuous jobs—will face a conflict between their duties at work and the demands of pregnancy.
- Women are pushed out of their jobs and often treated worse than other employees with similar limitations because the law does not guarantee reasonable accommodations for pregnancy.

PWFA Ensures that State Law Covers Pregnant Women Who Need Minor Adjustments at Work

- The MA PWFA amends Section 4 of chapter 151B of the General Law, explicitly adding pregnancy and related conditions as illegal reasons for discrimination and requiring employers to accommodate conditions related to pregnancy, including the need to express breast milk for a nursing child, unless doing so would pose an undue hardship on the employer.
Accommodations may include: more frequent or longer breaks, seating, light duty, assistance with manual labor, temporary transfer to less strenuous or hazardous positions, private non-bathroom space for expressing breast milk.
- The changes to the law would prevent pregnant workers from being denied accommodations and from being punished for seeking accommodations.
- The PWFA would allow a pregnant woman to keep working if a reasonable accommodation could be made to her job, rather than requiring her to leave the job entirely and forcing her to lose wages and benefits as well.

Nineteen States and the District of Columbia Guarantee Protections for Pregnant Workers

- 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.⁵
- Laws in Alaska, Connecticut, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Louisiana, Maryland, Minnesota, Nebraska, New Jersey, New York, North Dakota, Rhode Island, Texas, Utah, Vermont, West Virginia, New York City, Philadelphia, PA, Providence, RI and Central Falls, RI, also explicitly require employers to provide some accommodations to pregnant employees.⁶

Massachusetts Should Join Other States and Pass the PWFA to Benefit Working Women, their Families, their Employers and the Public

- Women who need income but lack accommodations are often forced to continue working, risking their own health and the health of their babies.⁷ Physically demanding work has been associated with an increased risk for preterm birth and low birth weight.⁸ Stress from losing a job also can increase the risk of a premature baby and/or a baby with low birth weight⁹; risks that may be avoided with a simple modification to keep a woman on the job.
- Proposed legislation will promote women's economic security during a critical time that is often filled with financial hardship, and would save taxpayers money in the form of unemployment insurance and other public benefits.¹⁰
- Legislation would provide clarity so employers can anticipate their responsibilities and avoid costly litigation. Employers benefit, too, from reduced turnover and increased productivity.¹¹
- After California passed similar legislation, litigation of pregnancy cases actually decreased, even as pregnancy discrimination cases around the country were increasing.¹² Hawaii's Civil Rights Commission reported a similar reduction in complaints and litigation after enactment.

Pregnant Workers Fairness Act Coalition members include: MotherWoman (lead), Alliance for Business Leadership, Associated Industries of Massachusetts, Mass. Nurses Assoc., MassCOSH, Mass. AFL-CIO, Mass. Employment Lawyers Assoc., Mass. Women's Bar Assoc., UNITE HERE! Local 26, NARAL Pro-Choice Mass., Mass., ACLU of Massachusetts, Western Mass. Women's Fund.

¹ MotherWoman, *MotherWoman's Stories of Pregnancy Discrimination*, (2014).

² MotherWoman, *MotherWoman's Stories of Pregnancy Discrimination*, (2014).

³ National Partnership for Women and Families, *Pregnant Workers Need the Pregnant Workers Fairness Act*, (May 2013), <http://www.nationalpartnership.org/research-library/workplace-fairness/pregnancy-discrimination/pregnant-workers-need-pregnant-workers-fairness-act.pdf>.

⁴ 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.

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

⁶ Alaska Stat. § 39.20.520(a); Colo. Rev. Stat. § 24-34-402.3; Conn. Gen. Stat. § 46a-60(a)(7); D.C. Code §32-1231.02; 19 Del. Code § 711(a); Haw. Admin. Rules § 12-46-107; Ill. Comp. Stat. Ann. § 775 5/2- 102(H); La. R.S. 23:342(4); Md. Code Ann. State Gov't § 20-609; Minn. Stat. § 181.941; Neb. Rev. Stat. § 48-1107.02; N.J. Stat. §§ 10:5-3.1, 10:5-12(s); N.Y. Exec. Law §§ 292, 296; N.D. Cent. Code § 14-02.4-03; R.I. Gen. Laws § 28-5-7.4; Tex. Local Gov't Code § 180.004(b); Utah Code Ann. § 34A-5-106; 21 V.S.A. § 495k; W. Va Code § 5-11B; N.Y.C. Admin. Code § 8-107(22); Phila. Code § 9-1128; Providence, R.I. Code § 16-57; Central Falls, R.I. Code § 12-5.

⁷ 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; 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).

⁸ See, e.g. Monique van Beukering et al., *Physically Demanding Work and Preterm Delivery: A Systematic Review and Meta-Analysis*, Int'l Archives of Occupational & Env'tl. Health (2014) (discussing association of prolonged standing, lifting and carrying, physical exertion, and a combination of those tasks with preterm birth).

⁹ March of Dimes, *Stress and Pregnancy* (Jan.2008/Jan.2010)

http://www.marchofdimes.com/pregnancy/lifechanges_indepth.html.

¹⁰ 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-55mC4ly4.

¹¹ *Workplace Accommodations: Low Cost, High Impact*, p3, <http://www.jan.wvu.edu/media/LowCostHighImpact.doc>.

¹² Equal Rights Advocates, *Expecting A Baby, Not A Lay-Off*, pg. 25, <http://www.equalrights.org/media/2012/ERA-PregAccomReport.pdf>.