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## FACT SHEET: Fairness for Pregnant Workers in Indiana



**No woman in Indiana should have to choose between the health of her pregnancy and her job.** Yet, this is happening all too often in the Hoosier State. The Indiana pregnant workers fairness bill (**HB 1073/SB 590**) would ensure that pregnant workers are given fair treatment on the job, provide clearer expectations for employers, and boost Indiana's 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. **HB 1073/SB 590** 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.

### **HB 1073/SB 590 Will Support Businesses By Clarifying Employers' Obligations to Pregnant Workers**

- The pregnant workers fairness bill **will provide much needed clarity, leading to upfront and informal resolutions** among employers and employees in ways 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-four states**, including Nebraska, West Virginia, South Carolina (just passed in 2018), Illinois, and Utah already require certain employers to provide accommodations to pregnant employees.<sup>1</sup>
- **HB 1073/SB 590 will help employers:**
  1. Increase employee retention and morale, and reduce employers' turnover and training costs, which can be quite high.
  2. Avoid costly litigation by providing clear guidelines for employers so they can anticipate their responsibilities. At least two states with pregnant worker fairness laws have reported a reduction in litigation since the laws went into effect and other states have seen no increase.<sup>2</sup>
  3. Help employers save on 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.<sup>3</sup>

- **Business groups around the country agree that pregnant worker legislation is pro-business:**
  - In Kentucky, where a bi-partisan bill has been introduced, the CEO of Greater Louisville, Inc., the City's chamber of commerce, wrote an op-ed calling pregnant workers fairness legislation in that state "pro-business, pro-workforce legislation that will be good for our state's economy."<sup>4</sup>
  - 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."<sup>5</sup>
  - 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."<sup>6</sup>

## Indiana's Economy Needs Strong Measures to Support Women in the Workforce

- Indiana ranks **23rd in the country** for female labor force participation rates.<sup>7</sup> The State must increase the participation of women, including pregnant women, in the workforce to strengthen its economy.
- HB 1073/SB 590 will also save taxpayers money in the form of unemployment insurance, Medicaid costs, and other public benefits.

## HB 1073/SB 590 Will Benefit Working Women and their Families

- It is estimated that **more than one quarter million** pregnant workers are denied requests for accommodations each year, and many more do not even request changes at work, likely because of fear of retaliation.<sup>8</sup>
- Women who need income but lack accommodations are often forced to continue working under unhealthy conditions, having no choice but to risk their own health as well as the health of their babies.<sup>9</sup> Nearly 1 in 10 babies in Indiana are born pre-term.<sup>10</sup> Physically demanding work, where accommodations are more often necessary but too often unavailable, has been associated with an **increased risk for preterm birth and low birth weight.**<sup>11</sup>
- Here in Indiana, and nationwide, pro-life & pro-choice groups both support legal protections ensuring reasonable accommodations for pregnant workers.<sup>12</sup>

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

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<sup>3</sup> *State Pregnant Worker Fairness Laws*, A Better Balance, <https://bit.ly/2yEKL6P>.

<sup>4</sup> See A Better Balance, *Pregnant and Jobless: Thirty-Seven Years After Pregnancy Discrimination Act, Pregnant Women Still Choose Between A Paycheck and A Healthy Pregnancy* 7 (Oct. 2015), <http://abetterbalance.org/web/images/stories/Documents/fairness/reports/PregnantandJobless.pdf>.

<sup>5</sup> *Premature Birth: The Financial Impact on Business*, March of Dimes, <https://bit.ly/2PCo2Qs>.

<sup>6</sup> Kent Oyler, *GUEST COMMENT: Legislation would help Kentucky women in the workforce* (Jan. 4, 2019), <https://www.bizjournals.com/louisville/news/2019/01/04/guest-comment-legislation-would-help-kentucky.html>.

<sup>7</sup> 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-breastfeedingin/article\\_be70363c-d663-5722-b7cb-9381c4fcb1f3.html](https://www.standard.net/opinion/our-view/utah-needs-to-get-right-with-women-accommodate-breastfeedingin/article_be70363c-d663-5722-b7cb-9381c4fcb1f3.html).

<sup>8</sup> 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>.

<sup>9</sup> Institute for Women's Policy Research, *Fact Sheet: The Economic Status of Women in Indiana*, (2018), <https://statusofwomendata.org/wp-content/themes/witsfull/factsheets/economics/factsheet-indiana.pdf>.

<sup>10</sup> *Listening to Mothers: The Experiences of Expecting and New Mothers in the Workplace*, Childbirth Connection (Jan. 2014)(citing Martin J.A., Hamilton B.E., Ventura S.J., et al. (2013, June 28). *Births: Final Data for 2011*. National Vital Statistics Reports, 62(1). U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics Publication), <https://bit.ly/LfRdXd>.

<sup>11</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>.

<sup>12</sup> *Peristats: Indiana*, March of Dimes, <https://www.marchofdimes.org/peristats/tools/reportcard.aspx?reg=18>.

<sup>13</sup> 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).

<sup>14</sup> Brief amici curiae of 23 Pro-Life Organizations and the Judicial Education Project, *Young v. UPS*, (September 11, 2014), available at: [http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226\\_tsac\\_23\\_Pro\\_Life\\_Organizations\\_and\\_Judicial\\_Education\\_Project.pdf](http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226_tsac_23_Pro_Life_Organizations_and_Judicial_Education_Project.pdf); Brief amici curiae of Health Care Providers, et al., *Young v. UPS*, (September 11, 2014), available at:

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