



FACT SHEET:

Fairness for Pregnant Public Employees in Tennessee

No woman in Tennessee should have to choose between the health of her pregnancy and her job. Yet, this is happening all too often in our state. The Tennessee Public Employees' Pregnant Workers Fairness Act (TN Public Employees' PWFA) would ensure that pregnant workers in the public sector can stay safe and healthy while earning paychecks to support their families.

Tennessee's Economy & Families Need Stronger Legal Protections

- Three-quarters of women entering the workforce in our country will be pregnant and employed at some point in their lives.¹ Some of these women—especially those in physically strenuous jobs—will face a conflict between their duties at work and the demands of pregnancy.
- It is estimated that **more than one quarter million** pregnant workers are denied requests for accommodations to their job duties each year, and many more do not even request changes at work, likely because of fear of retaliation.²
- Our public sector laws do not explicitly guarantee reasonable accommodations for pregnancy and recovery from childbirth.

Proposed Legislation Would Clarify that Tennessee Law Protects Pregnant Public Employees Who Need Minor Assistance at Work

- The TN Public Employees' PWFA (HB 978/SB 57) would explicitly require the state government to reasonably accommodate pregnant employees when necessary to keep a worker safe, healthy, and employed, unless such accommodation would impose an undue hardship.
- The proposed law would provide certainty and clarity for employees and employers alike.
- The law would *not* affect the private sector workforce.

The TN Public Employees' PWFA is an Important Public Health Measure, Promoting Healthier Pregnancies and Babies Statewide

- Women who need income but lack accommodations are often forced to continue working under unhealthy conditions, risking their health.³
 - A recent *New York Times* report revealed that several Memphis women suffered miscarriages after their supervisors at a warehouse denied their requests for accommodations.⁴
- 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.⁵ Tennessee has the 6th highest infant mortality rate in the country⁶--we must work to reduce this number.

Proposed Legislation Will Save the State of Tennessee Money

- Proposed legislation will promote family economic security⁷ 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.
- Employers, like our state, will also benefit.⁸ In an Op-Ed supporting a similar private sector bill, the head of a Kentucky chamber of commerce wrote in support of the bill: "these sorts of policies



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have led to increased talent attraction and retention, improved productivity, and reduced absenteeism.”⁹

- Legislation would provide clarity so the state can anticipate their responsibilities and avoid costly litigation.
 - Out of all 50 states, Tennessee has the 10th highest share of pregnancy discrimination charges filed with the EEOC.¹⁰
- After one state passed similar legislation, litigation of pregnancy cases decreased, even as pregnancy discrimination cases around the country were increasing.¹¹
- This bill’s fiscal note concludes that the bill would have no significant fiscal impact on the state.¹²
- Tennessee ranks 43rd in the country for female labor force participation rates.¹³ Increasing the participation of women in the workforce will strengthen Tennessee’s economy.

Need for Greater Legal Clarity Has Been Recognized Across the Country

- Twenty-four states, including South Carolina and West Virginia, and five cities already explicitly require certain employers to provide some form of accommodations to pregnant employees.¹⁴

For more information on this legislation, please contact A Better Balance at 615-915-2417.

¹ Alexandra Cawthorne & Melissa Alpert, *Labor Pains: Improving Employment and Economic Security for Pregnant Women and New Mothers*, (Aug. 2009), available at: <https://www.americanprogress.org/issues/women/report/2009/08/03/6599/labor-pains/>.

² Bryce Covert, “Why Are Workplaces Still Not Ready for Pregnant Workers?,” January 31, 2014, available at: <http://thinkprogress.org/economy/2014/01/31/3235471/pregnant-workers-survey/>.

³ 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.

⁴ Jessica Silver-Greenberg & Natalie Kitroeff, “Miscarrying at Work: The Physical Toll of Pregnancy Discrimination,” October 21, 2018, available at: <https://www.nytimes.com/interactive/2018/10/21/business/pregnancy-discrimination-miscarriages.html>.

⁵ 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 & Evtl. Health (2014) (discussing association of prolonged standing, lifting and carrying, physical exertion, and a combination of those tasks with preterm birth).

⁶ Centers for Disease Control, “Infant Mortality Rates by State, 2017” available at: https://www.cdc.gov/nchs/pressroom/sosmap/infant_mortality_rates/infant_mortality.htm.

⁷ Brief amici curiae of American Civil Liberties Union and A Better Balance, et al., *Young v. UPS*, (September 11, 2014), available at: http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226_tsac_aclu.pdf.

⁸ Brief amici curiae of U.S. Women’s Chamber of Commerce, et al., *Young v. UPS*, (September 11, 2014), available at: http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/BriefsV4/12-1226_pet_amcu_uswcooc-et-al.authcheckdam.pdf.

⁹ Kent Oyler, “Guest comment: Legislation would help Kentucky women in the workforce,” Jan. 4, 2019, available at: <https://www.bizjournals.com/louisville/news/2019/01/04/guest-comment-legislation-would-help-kentucky.html>.

¹⁰ National Partnership for Women and Families, *By the Numbers: Women Continue to Face Pregnancy Discrimination in the Workplace*, October 2016, available at: <http://www.nationalpartnership.org/our-work/resources/workplace/pregnancy-discrimination/by-the-numbers-women-continue-to-face-pregnancy-discrimination-in-the-workplace.pdf>.

¹¹ Equal Rights Advocates, *Expecting A Baby, Not A Lay-Off*, pg. 25, <http://www.equalrights.org/wp-content/uploads/2013/02/Expecting-A-Baby-Not-A-Lay-Off-Why-Federal-Law-Should-Require-the-Reasonable-Accommodation-of-Pregnant-Workers.pdf>.

¹² TENN. GEN. ASSEM. FISCAL REVIEW COMM., FISCAL NOTE, S.B. 57, (2019) available at <http://www.capitol.tn.gov/Bills/111/Fiscal/SB0057.pdf>.

¹³ Think Tennessee, *State of Our State 2019*, available at: <https://thinktennessee.org/research/state-of-our-state-2019/>.

¹⁴ The list includes Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Jersey, New York, North Carolina, North Dakota, Rhode Island, South Carolina, Texas, Utah, Vermont, Washington, West Virginia, District of Columbia, Philadelphia, Providence & Central Falls, RI, and New York City. A Better Balance, “State and Local Laws Protecting Pregnant Workers,” available at: <http://www.abetterbalance.org/web/ourissues/fairness-for-pregnant-workers/310>.