



## FACT SHEET:

### Fairness for Pregnant Workers in Tennessee (HB 2708/SB 2520)

No pregnant worker in Tennessee should have to choose between a healthy pregnancy and their job. Yet, this is happening all too often in our state. The Tennessee Pregnant Workers Fairness Act (TN PWFA) (HB 2708/SB 2520) will ensure that pregnant workers are treated fairly on the job, provide clearer expectations for employers, and boost our economy.

#### Gaps in current law leave Tennessee's pregnant workers vulnerable.

- Tennessee law **does not explicitly provide reasonable accommodations** for pregnancy, childbirth, or other pregnancy-related medical needs.
- Pregnant workers have **limited protections under federal law**.
  - Under the Pregnancy Discrimination Act, absent other clear evidence of wrongdoing, employers only need to accommodate pregnant workers if they already provide accommodations to other workers.
  - The Americans with Disabilities Act only requires accommodations for pregnancy-related disabilities, but not pregnancy itself.
- This means that 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 forced to risk their health**.<sup>1</sup>
- The TN PWFA (HB 2708/SB 2520) will ensure that employers **reasonably accommodate** employees with medical needs related to pregnancy, childbirth, and related conditions, unless it would cause an **undue hardship** for the employer.

#### The Tennessee Pregnant Workers Fairness Act (HB 2708/SB 2520) will benefit businesses by:

- **Increasing employee retention and morale while reducing turnover and training costs.**<sup>2</sup>
- **Reducing healthcare costs.** 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>3</sup> On average, each premature/low birth weight baby costs employers and employees an additional \$58,917 in newborn and maternal health care costs.<sup>4</sup>
- **Preventing costly litigation** by providing clear guidelines so employers 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>5</sup>
- Tennessee's four **urban chambers of commerce—Memphis, Nashville, Knoxville, and Chattanooga—actively support the legislation.**<sup>6</sup>

#### Tennessee's economy needs strong measures to support women in the workforce.

- Tennessee ranks **41st in the country** for female labor force participation rates.<sup>7</sup> According to a recent report, policies that help increase the number of women in the workforce could add up to **\$34 billion** to the state's GDP by 2025.<sup>8</sup>



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## The Tennessee Pregnant Workers Fairness Act (HB 2708/SB 2520) will promote healthier pregnancies and babies.

- **Women in Tennessee are being forced to choose between their jobs and a healthy pregnancy.** For example, a front-page *New York Times* report revealed that **several Memphis women suffered miscarriages** after their supervisors at a warehouse denied their requests for accommodations.<sup>9</sup>
- **The March of Dimes gave Tennessee a “D” grade on its 2019 preterm birth report card**, reporting that 11.1% of babies in the state are born preterm and “the preterm birth rate among black women is 45% higher than the rate among all other women.”<sup>10</sup>
- According to the Louisville Department of Public Health and Wellness, “**accommodating pregnant workers, upon their request, is critical for reducing poor health outcomes.**”<sup>11</sup>

## More than half of states have already taken action to address this issue.

- **29 states**, including Kentucky, South Carolina, and West Virginia, require certain employers to provide accommodations to pregnant employees.<sup>12</sup>
- Most of these laws passed with **bipartisan support and backing from the business community.**<sup>13</sup>
  - Greater Louisville Inc., a prominent Kentucky chamber of commerce, called Kentucky’s proposal “**pro-business, pro-workforce legislation that will be good for our state’s economy.**”<sup>14</sup>
  - The South Carolina Chamber of Commerce took a neutral position on that state’s bill.<sup>15</sup> After the law passed, one business publication praised the law for creating “**clearer expectations**” for employers.<sup>16</sup>

**For more information on this legislation, please contact Elizabeth Gedmark, Vice President, at (615) 915-2417 or [egedmark@abetterbalance.org](mailto:egedmark@abetterbalance.org).**

<sup>1</sup> A Better Balance, *Pregnant and Jobless*, (2015), <https://www.abetterbalance.org/wp-content/uploads/2017/01/PregnantandJobless.pdf>.

<sup>2</sup> U.S. Women’s Chamber of Commerce, *Letter to Congress Re: Business Support for the Pregnant Workers Fairness Act*, [https://www.abetterbalance.org/wp-content/uploads/2017/05/USWCC\\_Letter-of-support\\_-\\_PWFA.pdf](https://www.abetterbalance.org/wp-content/uploads/2017/05/USWCC_Letter-of-support_-_PWFA.pdf).; Job Accommodation Network, *Workplace Accommodations: Low Cost, High Impact*, p. 5 (2015), <https://askjan.org/topics/costs.cfm>.

<sup>3</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>4</sup> *Premature Birth: The Financial Impact on Business*, March of Dimes, <https://bit.ly/2PCo2Qs>.

<sup>5</sup> Equal Rights Advocates, *Expecting A Baby, Not A Lay-Off*, [http://www.ncdsv.org/images/ERA\\_ExpectingABabyNotALay-off\\_2012.pdf](http://www.ncdsv.org/images/ERA_ExpectingABabyNotALay-off_2012.pdf).; A Better Balance, *Pregnant and Jobless*, p. 16 (2015), <https://www.abetterbalance.org/wp-content/uploads/2017/01/PregnantandJobless.pdf>.

<sup>6</sup> 2020 Metro Chambers Joint Legislative Agenda, (2020), <https://www.chattanooga-chamber.com/chamber/subpage-1/2020-metro-chambers-joint-state-legislative-agenda>.

<sup>7</sup> *Status of Women in the States*, Institute for Women’s Policy Research, <https://statusofwomensdata.org/explore-the-data/state-data/tennessee/>.

<sup>8</sup> A Better Balance & ThinkTennessee, *State of Our State: Women in the Workforce*, (May 2019), <https://www.abetterbalance.org/state-of-tn-women/>.

<sup>9</sup> Jessica Silver-Greenberg & Natalie Kitroeff, *Miscarrying at Work: The Physical Toll of Pregnancy Discrimination*, *The New York Times* (October 21, 2018), <https://www.nytimes.com/interactive/2018/10/21/business/pregnancy-discrimination-miscarriages.html>.

<sup>10</sup> *Peristats: Tennessee*, March of Dimes, <https://www.marchofdimes.org/peristats/tools/reportcard.aspx?reg=01>.

<sup>11</sup> Louisville Department of Public Health and Wellness, *Pregnant Workers Health Impact Assessment*, (Feb. 2019), [https://louisvilleky.gov/sites/default/files/health\\_and\\_wellness/che/pregnant\\_workers\\_hia\\_final\\_02182019.pdf](https://louisvilleky.gov/sites/default/files/health_and_wellness/che/pregnant_workers_hia_final_02182019.pdf).

<sup>12</sup> *State Pregnant Worker Fairness Laws*, A Better Balance, <https://bit.ly/2yEKL6P>.

<sup>13</sup> Dina Bakst, Elizabeth Gedmark, and Sarah Brafman, A Better Balance, *Long Overdue*, (May 2019), <https://www.abetterbalance.org/long-overdue/>.

<sup>14</sup> Kent Oyler, Op-Ed., Guest Comment: Legislation Would Help Kentucky Women in the Workforce, *Louisville Business First* (Jan. 4, 2019), <https://www.bizjournals.com/louisville/news/2019/01/04/guest-comment-legislation-would-help-kentucky.html>.

<sup>15</sup> Mattie Quinn, *Bumped Out*, *Governing: The States and Localities* (Dec. 2018), <https://www.governing.com/topics/mgmt/gov-pregnancy-discrimination.html>.

<sup>16</sup> Jada Jacobs, *New South Carolina Law Protects Pregnant and Nursing Employees*, *Propel HR* (June 20, 2018), <https://www.propelhr.com/blog/new-sc-law-protects-pregnant-employees-and-nursing-mothers>.