

May 11, 2021

Re: Support the Pregnant Workers Fairness Act

Dear Representative:

The undersigned organizations dedicated to assuring quality maternal, infant, and child health and well-being, improving pregnancy and birth outcomes, and closing racial disparities in maternal health enthusiastically support the Pregnant Workers Fairness Act (H.R. 1065). Modeled after the Americans with Disabilities Act, the bill would require employers to provide reasonable, temporary workplace accommodations to pregnant workers as long as the accommodation does not impose an undue hardship on the employer. This bill is critically important because no one should have to choose between having a healthy pregnancy and a paycheck.

Congress must do all it can to end the prejudice pregnant workers, especially Black pregnant workers and workers of color, continue to face in the workplace. This includes making sure when pregnant workers voice a need for reasonable accommodations that those needs are met rather than penalized and that the workplace is an environment where pregnant workers do not fear asking for the accommodations they need to maintain their health.

Three-quarters of women will be pregnant and employed at some point in their lives.¹ Most pregnant workers can expect a routine pregnancy and healthy birth. However, health care professionals have consistently recommended that some pregnant individuals make adjustments in their work activities to sustain a healthy pregnancy and prevent adverse pregnancy outcomes, including preterm birth or miscarriage.² These medically necessary workplace accommodations can include allowing additional bathroom breaks, opportunities to stay hydrated, lifting restrictions, or access to a chair or stool to decrease time spent standing.

Unfortunately, too many pregnant workers, particularly pregnant people of color, face barriers to incorporating even these small changes to their workdays.³ For example, Black women experience maternal mortality rates three to four times higher than white women, with Indigenous women similarly experiencing disproportionately high rates. The circumstances surrounding these alarming statistics can often be attributed to a lack of access to care, including due to inflexible workplaces, and deep biases in racial understanding. Various social determinants such as health, education, and economic status drastically influence the outcomes of pregnancy for Black women leading to severe pregnancy-related complications. As the Black Mamas Matter Alliance has pointed out “Health is determined in part by our access to social and economic opportunities, the resources and supports that are available in the places where we live, and the safety of our workplaces...however, disparities in these conditions of daily life give some

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

² Employment considerations during pregnancy and the postpartum period. ACOG Committee Opinion No 733. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2018;131:e115–23.

³ National Women’s Law Center & A Better Balance, It Shouldn’t be a Heavy Lift: Fair Treatment for Pregnant Workers (2013), <https://www.abetterbalance.org/wp-content/uploads/2017/03/ItShouldntBeAHeavyLift.pdf>

people better opportunities to be healthy than others.”⁴ Black pregnant workers along with Latinx and immigrant women are disproportionately likely to work in physically demanding jobs that may lead to workers needing modest accommodations to ensure a healthy pregnancy. Too often, however, those requests are refused or ignored, forcing pregnant workers of color to disproportionately contend with unsafe working conditions.

Furthermore, Black mothers have among the highest labor force participation rates in the country and 80 percent of Black mothers are their family’s primary breadwinner.⁵ Yet, historically, Black women have been exploited in the workplace, and that exploitation continues to this day. Though Black women only comprise 14.3 percent of the population, nearly thirty percent of pregnancy discrimination complaints are filed by Black women.⁶ This is because of the multiple forms of discrimination Black workers and other workers of color too often face in the workplace. As scholar Nina Banks has noted, “The legacy of black women’s employment in industries that lack worker protections has continued today since black women are concentrated in low-paying, inflexible service occupations...”⁷ Black women in low wage jobs working during pregnancy face little support from employers when safeguards do not address pregnancy related accommodations. Faced with the threat of termination, loss of health insurance, or other benefits, Black pregnant people are often forced to keep working which can compromise their health and the health of their pregnancy.

Workplace accommodations help safeguard a healthy pregnancy or prevent harm to a higher-risk pregnancy. Across the country, pregnant workers continue to be denied simple, no-cost or low-cost, temporary adjustments in their work settings or activities and instead risk being fired or forced to take unpaid leave to preserve the health of their pregnancy.⁸

This impossible choice forces many pregnant workers to continue working without accommodations, putting women and their pregnancies at risk of long-lasting and severe health consequences. When pregnant workers must continue working without accommodations, they risk miscarriage, excessive bleeding, and other devastating health consequences. Black women have the highest incidence of preterm birth⁹ and yet we know that workplace accommodations such as reducing heavy lifting, bending, or excessive standing can help prevent preterm birth, the leading cause of infant mortality in this country.¹⁰

⁴ Black Mamas Matter Alliance and Center for Reproductive Rights, *Black Mamas Matter Advancing The Human Right To Safe And Respectful Maternal Health Care*, at 53 (2018).

⁵ Nina Banks, Economic Policy Institute, *Black Women’s Labor Market History Reveals Deep-Seated Race and Gender Discrimination* (Feb. 19, 2019).

⁶ Nora Ellmann and Jocelyn Frye, Center for American Progress, *Efforts to Combat Pregnancy Discrimination* (Nov. 2, 2019).

⁷ See *supra* note 5.

⁸ See *supra* note 3.

⁹ March of Dimes, *2020 March of Dimes Report Card* (2020), https://www.marchofdimes.org/materials/MOD2020-REPORT_CARD_and_POLICY_ACTIONS_BOOKLET_FIN.pdf.

¹⁰ Louisville Dep’t of Public Health and Wellness, *Pregnant Workers Health Impact Assessment 2019*, at 5 (2019) [hereinafter *Pregnant Workers Health Impact Assessment*], https://louisvilleky.gov/sites/default/files/health_and_wellness/che/pregnant_workers_hia_final_02182019.pdf; see also *Preterm Birth*, World Health Organization (Feb. 29, 2018), <https://www.who.int/news-room/fact-sheets/detail/preterm-birth>.

Black women also experience higher rates of preeclampsia, which is one of the leading causes of maternal mortality.¹¹ We are still learning about how to prevent this dangerous medical condition, yet we know that simply allowing workers to take bathroom breaks can prevent urinary tract infections¹² which are “strongly associated with preeclampsia.”¹³ Similarly, ensuring pregnant workers can drink a sufficient amount of water can also help pregnant workers maintain their blood pressure,¹⁴ which is critically important since hypertensive disorders (high blood pressure) are also a leading cause of maternal morbidity and mortality.¹⁵ By putting a national pregnancy accommodation standard in place, the Pregnant Workers Fairness Act has the potential to improve some of the most serious health consequences Black pregnant people experience. Furthermore, the Pregnant Workers Fairness Act will help remove one of the many barriers Black pregnant people face at work by ensuring they are afforded immediate relief under the law,¹⁶ and not thrown into financial dire straits for needing pregnancy accommodations.

The Pregnant Workers Fairness Act is a measured approach to a serious problem. As organizations dedicated to maternal health and closing racial disparities in pregnancy and birth outcomes, we understand the importance of reasonable workplace accommodations to ensure that pregnant persons can continue to provide for their families and have safe and healthy pregnancies. We collectively urge swift passage of the Pregnant Workers Fairness Act.

Sincerely,

Black Mamas Matter Alliance
March of Dimes
National WIC Association
1,000 Days
A Better Balance
Academy of Nutrition and Dietetics
American Academy of Pediatrics
American Civil Liberties Union
American College of Obstetricians and Gynecologists
Agricultural Justice Project
Ancient Song Doula Services
Association of Maternal & Child Health Programs
Baobab Birth Collective

¹¹ Labib Ghulmiyyah and Baha Sibai, *Maternal Mortality From Preeclampsia/Eclampsia*, *Seminars in Perinatology*, Vol. 36, Issue 1, 56–59 (Feb. 2012).

¹² See *Pregnant Workers Health Impact Assessment supra* note 11 at 8.

¹³ Sarah Rae Easter, David E. Cantonwine, Chloe A. Zera, Kee-Hak Lim, Samuel I. Parry, Thomas F. McElrath, *Urinary tract infection during pregnancy, angiogenic factor profiles, and risk of preeclampsia*, *American Journal of Obstetrics and Gynecology*, Vol. 213, Issue 3, Mar. 2015, P387.E1-387.E7.

¹⁴ See *Pregnant Workers Health Impact Assessment supra* note 11 at 6.

¹⁵ Emily Jones, *Cardiovascular Disease is the Leading Cause of U.S. Maternal Death*, Preventive Cardiovascular Nurses Association (Jan. 16, 2020) (citing Petersen EE, Davis NL, Goodman D, Cox S, Mayes N, Johnston E, Syverson C, Seed K, Shapiro-Mendoza CK, Callaghan WM and Barfield W. Vital Signs: Pregnancy-Related Deaths, United States, 2011-2015, and Strategies for Prevention, 13 States, 2013-2017. *MMWR Morb Mortal Wkly Rep.* 2019;68:423-429).

¹⁶ Dina Bakst, Elizabeth Gedmark, and Sarah Brafman, “Long Overdue: It Is Time for the Federal Pregnant Workers Fairness Act,” (2019) <https://www.abetterbalance.org/long-overdue/>.

Black Women's Health Imperative
Breastfeeding in Combat Boots
California WIC Association
Centering Equity, Race & Cultural Literacy in Family Planning (CERCL-FP)
Earth Action, Inc.
Farmworker and Landscaper Advocacy Project
Farmworker Association of Florida
Feminist Women's Health Center
First Focus Campaign for Children
Healthy Mothers, Healthy Babies Coalition of Georgia
HealthyWomen
Human Rights Watch
Mom2Mom Global
NARAL Pro-Choice America
National Association of Nurse Practitioners in Women's Health
National Birth Equity Collaborative
National Partnership for Women & Families
National Women's Health Network
National Women's Law Center
Nebraska WIC Association
Nurse-Family Partnership
Physicians for Reproductive Health
Planned Parenthood Federation of America
Public Citizen
SisterReach
SisterSong National Women of Color Reproductive Justice Collective
U.S. Breastfeeding Committee
Workplace Fairness
Wisconsin WIC Association
ZERO TO THREE