October 10, 2013

Re: Pregnant Workers Fairness Act

Dear Member of Congress:

As organizations dedicated to combating sex discrimination and promoting the health and economic security of our nation's families, we write to urge you to support the Pregnant Workers Fairness Act, a bill that would promote nondiscrimination by ensuring that pregnant workers are not forced out of their jobs unnecessarily or denied reasonable job modifications that would allow them to continue working and supporting their families. This bill promotes the health and economic security of pregnant women, their babies, and their families without harming the economy.

Three-quarters of women entering the workforce will be pregnant and employed at some point. Since the Pregnancy Discrimination Act (PDA) became law in 1978, there has been a dramatic demographic shift in the workforce. Not only do women now make up almost half of the workforce, but there are more pregnant workers than ever before and they are working later into their pregnancies. At some point in their pregnancies, some of these women—especially those in physically strenuous jobs—will face a conflict between their duties at work and the demands of pregnancy.

Under current pregnancy law, the PDA, employers cannot discriminate based on pregnancy, childbirth, or related medical conditions. This means that employers cannot fire, refuse to hire, or otherwise treat an employee adversely because of pregnancy and must treat pregnant workers at least as well as those similar in their ability or inability to work. Despite these existing protections, pregnant workers are all too often forced out of their jobs unnecessarily and denied the minor modifications to job duties, job rules or job policies that would enable them to continue working. Women in low-wage jobs, a group that is disproportionately made up of women of color and immigrant workers, are particularly likely to be affected by this form of pregnancy discrimination. For example, a retail worker in Salina, Kansas, was fired because she needed to carry a water bottle to stay hydrated and prevent bladder infections.[i] An activity director at a nursing home in Valparaiso, Indiana, was terminated because she required help with some physically strenuous aspects of her job to prevent having another miscarriage.[ii] In Landover, Maryland, a delivery truck driver was forced out on unpaid leave because she had a lifting restriction and was denied light duty.[iii] These women lost in court, even though workers covered by the Americans with Disabilities Act Amendments Act would be entitled to carry water or receive help on the job. Despite the protections of the PDA, pregnant women are still often treated *worse* than other workers who may be limited in their ability to perform certain aspects of a job.

The Pregnant Workers Fairness Act, modeled after the Americans with Disabilities Act, addresses this problem through an existing and familiar reasonable accommodations framework. Specifically, this legislation prevents employers from forcing pregnant women out of the workplace (either by placing them on leave or firing them altogether) and ensures that, where a minor job modification would allow a woman to continue working, an employer must provide it

unless doing so would pose an undue hardship. California enacted similar legislation in 2000, where it has been used countless times to help pregnant women stay healthy and keep their jobs. Connecticut, Hawaii, Louisiana, Alaska, Texas, Illinois, and Maryland also explicitly require certain employers to provide reasonable accommodation to pregnant employees. While plenty of women are able to work through their pregnancies without any job modifications, those who cannot desperately need a clear right to do so. This bill would empower women while benefitting employers by providing certainty about their responsibilities.

Minor job modifications for pregnant women are a public health necessity. A choice between
working under unhealthy conditions and potentially losing income is no choice at all. Women who cannot perform some aspects of their usual duties without risking their own health or the health of their pregnancy, but are in need of income, may have to continue working under dangerous conditions. There are health consequences to pushing women out of the workforce as well. Stress from job loss can increase the risk of having a premature baby and/or a baby with low birth weight. In addition, women who can continue to work during pregnancy may be able to take a longer period of leave following childbirth, which in turn facilitates breastfeeding, bonding with and caring for a new child, and recovering from childbirth. Breastfeeding has extensive health benefits for mothers and infants, which may reduce future illness related absences.

Pregnancy-related adjustments at work also promote family economic security. In this difficult
economy, workers cannot afford to be pushed out or terminated from their jobs because of pregnancy and childbirth. By continuing to work, pregnant women can maintain income and seniority at work, while forced leave sets new mothers back with lost wages and missed advancement opportunities. When pregnant women are fired, not only do they and their families lose critical income, but they must fight extra hard to re-enter a job market that is especially brutal on the unemployed and on pregnant women. Similarly, new mothers often confront mounting hiring bias. On the other hand, providing reasonable accommodations carries benefits for employers, including reduced turnover and increased productivity.

Ensuring equal opportunity for working women is vital to the health and economic security of our nation's families. We urge you to co-sponsor the Pregnant Workers Fairness Act and would welcome the opportunity to provide you with detailed information on these recommendations and to speak with you further about the critical needs of pregnant women and new mothers.

Sincerely,

A Better Balance: The Work & Family Legal Center
American Civil Liberties Union (ACLU)
California Women's Law Center
Equal Rights Advocates
The Legal Aid Society—Employment Law Center
Legal Momentum
National Partnership for Women and Families

National Women’s Law Center
9to5
9to5 Atlanta
9to5 California
9to5 Colorado
9to5 Wisconsin
Advocates for Youth 3
African American Ministers in Action (AAMIA)
AIDS Foundation of Chicago
Alliance for Early Care and Education
American Academy of Nursing
American Association of University Women (AAUW)
American College of Nurse-Midwives (ACNM)
American Congress of Obstetricians and Gynecologists (ACOG)
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers
American Medical Women's Association
American Nurses Association
Asian & Pacific Islander American Health Forum
Association Employees Union (AEU)
Association of Reproductive Health Professionals (ARHP)
Association of Women's Health, Obstetric and Neonatal Nurses
Bazelon Center
Black Women's Health Imperative
Business and Professional Women’s Foundation
Center for Law and Social Policy (CLASP)
Center of Reproductive Rights
Centering Healthcare Institute
Childbirth Connection
Coalition of Labor Union Women
Communications Workers of America
Community Service Society
Department for Professional Employees, AFL-CIO
Direct Care Alliance
Disciples Justice Action Network
Disciples Women, Christian Church (Disciples of Christ)
Economic Opportunity Institute
Employment Justice Center
The Every Child Matters Education Fund
Family and Children's Ministries, Disciples Home Missions, Christian Church (Disciples of Christ)
Family Equality Council
Family Forward Oregon
Family Values @ Work Consortium
Feminist Majority

Florida Federation of Business and Professional Women's Club, Inc.
Hadassah, The Women's Zionist Organization of America, Inc.
Healthy Teen Network
HIV Prevention Justice Alliance (HIV PJA)
Human Rights Project for Girls
The Indiana Toxics Action Project
Institute for Science and Human Values 4
International Union, United Automobile, Aerospace & Agricultural Implement Workers of America
(UAW)
Jewish Women International
Job Opportunities Task Force
Jobs with Justice/American Rights at Work
Labor Project for Working Families
Leadership Conference on Civil and Human Rights
Legal Voice
Maryland Women's Coalition for Health Care Reform
Main Street Alliance
Maternity Care Coalition
Mexican American Legal Defense and Educational Fund
MomsRising
Mothering Justice
NAACP Legal Defense & Educational Fund
National Association for the Advancement of Colored People (NAACP)
National Association of Commissions for Women (NACW)
National Association of Mothers' Centers
National Association of Nurse Practitioners in Women's Health
National Asian Pacific American Women's Forum
National Center for Transgender Equality
National Council of Jewish Women
National Council of La Raza (NCLR)
National Council of Negro Women
National Council of Women's Organizations
The National Crittenton Foundation
National Domestic Workers Alliance
National Education Association
National Employment Law Project
National Employment Lawyers Association (NELA)
National Employment Lawyers Association NY
National Fair Housing Alliance
National Gay and Lesbian Task Force Action Fund
National Latina Institute for Reproductive Health
National Military Family Association
National Organization for Women
National Women's Conference Committee
National Women’s Health Network

Neighborhood Funders Group
Neptune Marketing LLC
NETWORK, A National Catholic Social Justice Lobby
New Jersey Citizen Action
New York Paid Leave Coalition
North Carolina Justice Center
Occupational and Environmental Health Center of Eastern NY
Partnership for Working Families
Pediatric AIDS Chicago Prevention Initiative 5
People For the American Way
Physicians for Reproductive Choice and Health
Planned Parenthood Federation of America
Planned Parenthood of Western New York
The Praxis Project
Pride at Work
Progressive Maryland
Progressive National Baptist Convention, Inc.
Public Health Institute of Metropolitan Chicago
Public Justice Center
Religious Coalition for Reproductive Choice
RESOLVE: The National Infertility Association
Restaurant Opportunities Centers United
Restaurant Opportunities Center – Miami
Retail Action Project
Ritz Clark & Ben-Asher LLP
Service Employees International Union (SEIU)
Sexuality Information and Education Council of the U.S. (SIECUS)
Society for Women's Health Research
Sugar Law Center for Economic and Social Justice
UN Women - Greater L.A. Chapter (of USNC)
Unitarian Universalist Association of Congregations
Unitarian Universalist Women's Federation
United Food and Commercial Workers International Union
United Food and Commercial Workers – Local 5
Washington Area Women's Foundation
Washington Work and Family Coalition
The What To Expect Foundation
Wider Opportunities for Women
Women Employed
Women Donors Network
Women's Employment Rights Clinic, Golden Gate University School of Law
The Women's Fund of Long Island
Women's Law Project
Women's Media Center
Workforce 21C
Young Workers United

[i] *Wiseman v. Wal-Mart Stores, Inc.*, No. 08-1244-EFM, 2009 WL 1617669 (D. Kan. June 9, 2009).
[ii] *Serednyj v. Beverly Healthcare*, 656 F.3d 540 (7th Cir. 2011).

[iii] *Young v. United Parcel Service, Inc.*, No. DKC 08-2586, 2011 WL 665321 (D. Md. Feb. 14, 2011).