



EMPLOYMENT

FACT SHEET

The Nebraska Pregnant Workers Fairness Bill: Making Room for Pregnancy on the Job

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Pregnant and Pushed Out of Work

Although many women can continue working safely throughout their pregnancies, some women find that at some point during pregnancy particular job activities—such as lifting, bending, or standing for long periods—begin to pose a challenge. Many of these women could continue to work without risk to themselves or their pregnancies with slight job modifications. But in the absence of such a modification, they may face an impossible choice between the health of their pregnancies and their jobs.

For example, in 2013 Kate M. worked for a health care center in Nebraska, where she was hired to do a job that was described to her as mostly an office job with occasional filling in for home care nurses. She was pregnant at the time she was hired. As her job progressed, her employer asked her to take on home care as her main responsibility, which required more lifting, and the lifting involved with the job gave Katherine ligament pain and cramping. When her doctor instructed her not to lift more than 25 pounds for the remainder of her pregnancy, her employer told her that she was too much of a liability to continue working and forced her onto short-term disability. As her pregnancy progressed, she was ultimately left with no pay and no benefits and instead had to rely on Medicaid for health coverage when she gave birth.

Today, more women are continuing to work while they are pregnant, and through later stages of pregnancy. For example, two-thirds of women who had their first child

between 2006 and 2008 worked during pregnancy, and 88 percent of these first-time mothers worked into their last trimester.¹ Approximately 71 percent of women who give birth in Nebraska in any given year are working women.²

Women's wages are absolutely critical to the wellbeing of their families—in 2010, nearly two-thirds of mothers were primary or co-breadwinners for their families.³ Because a new baby means increased expenses, a woman's wages will often be particularly important to her family when preparing for the birth of a child. But too many employers refuse to provide even simple, temporary accommodations when a pregnant worker has a medical need for them, like a stool that would allow a pregnant cashier to sit instead of stand, or an exception from a rule against drinking water while working. As a result, pregnant women's health is put at risk, or they are forced out of their jobs at the moment they and their families can least afford it.

LB 627, the Nebraska Pregnant Workers Fairness Bill

LB 627, the Nebraska Pregnant Workers Fairness bill, would ensure that pregnant women can continue to do their jobs and support their families by making it unmistakably clear that employers must grant the same sorts of accommodations for medical needs arising out of pregnancy that they already must make for disabilities. The bill would:

- Require employers to make reasonable accommodations for employees who have physical limitations in their ability to work stemming from pregnancy, unless the



accommodation would impose an undue hardship on the employer. These accommodations might include:

- o Providing a stool to a pregnant employee experiencing swelling of the legs as a result of standing for an entire shift;
 - o Modifying a no-food-or-drink policy so that an employee can drink water to prevent painful and potentially dangerous uterine contractions;
 - o Shifting an employee's work schedule if she regularly experiences severe nausea early in the morning;
 - o Modifying a policy that limits an employee's ability to take restroom breaks if the employee has an increased need for restroom breaks as a result of pregnancy and faces an increased risk of urinary tract infections in the absence of these breaks.
 - o Reassigning occasional heavy lifting duties for a pregnant employee who has been advised not to lift more than 20 pounds by her health care provider;
 - o Allowing a pregnant worker to fill an alternative, available position for which she is qualified if her current position imposes particular medical risks to her pregnancy;
 - o Providing time off to recover from childbirth; or
 - o Allowing break time and appropriate facilities for lactation needs.
- Prohibit employers from firing or otherwise penalizing a pregnant employee because she needs this sort of reasonable accommodation.
 - Prohibit employers from denying employment opportunities to a pregnant job applicant or employee because she needs reasonable accommodations.
 - Prohibit employers from requiring a pregnant employee to accept changes in her work responsibilities when the pregnant employee does not need any modification to do her job.
 - Prohibit employers from forcing a pregnant employee to take paid or unpaid leave when another reasonable accommodation would allow her to continue to work.
 - Provide the same protections against discriminatory practices for pregnant employees as are currently provided for employees with disabilities.
 - Require the Equal Opportunity Commission to report at least every two years to the Legislature and Governor the number of pregnancy discrimination complaints filed under the Act and how they have been resolved.

Good for Workers, Good for Business

Only 1.8 percent of employed people in Nebraska give birth each year, and only a fraction of those workers would require accommodations.⁴ Employer experience with disability accommodations and workplace flexibility policies show that the costs of accommodating pregnant workers are likely to be small—and that providing accommodations can be expected to reduce workforce turnover, increase employee satisfaction and productivity, and save workers' compensation and other insurance costs.⁵

A Commonsense Solution

LB 627 provides a commonsense solution for pregnant workers in Nebraska who are being asked to choose between their health and their livelihood. States and cities around the country have acted in a bipartisan fashion to pass similar protections. It is now up to Nebraska to ensure that pregnant workers can continue to do their jobs and contribute to the state's economic success.

¹ U.S. Census Bureau, *Maternity Leave and Employment Patterns of First-Time Mothers 1961-2008*, 4, 6 (Oct. 2011).

² See National Partnership for Women and Families, *Pregnant Workers Need the Pregnant Workers Fairness Act* (May 2013), <http://www.nationalpartnership.org/research-library/workplace-fairness/pregnancy-discrimination/pregnant-workers-need-pregnant-workers-fairness-act.pdf>.

³ Center for American Progress, *The New Breadwinners: 2010 Update* (April 2012), http://www.americanprogress.org/issues/2012/04/epd_breadwinners.html.

⁴ See National Women's Law Center, *Pregnant Workers Make Up a Small Share of the Workforce and Can Be Readily Accommodated: A State-by-State Analysis* (2013), http://www.nwlc.org/sites/default/files/pdfs/state_by_state_analysis.pdf.

⁵ See National Women's Law Center, *The Business Case for Accommodating Pregnant Workers* (2012), http://www.nwlc.org/sites/default/files/pdfs/pregnant_workers_business_case_12.04.12.pdf.