



FOR GENDER JUSTICE

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POLICY BRIEF

ENSURE NO ONE IS FORCED TO CHOOSE BETWEEN A JOB AND A HEALTHY PREGNANCY: TREAT PREGNANT WORKERS FAIRLY

THE PROBLEM

Almost 45 years after the passage of the federal Pregnancy Discrimination Act (PDA), pregnant workers still face challenges on the job. While many people will work through their pregnancies without any need for accommodations, some people will need temporary changes at work to continue working safely during pregnancy. These accommodations can be as minor as permission to carry a bottle of water during a shift, or a stool so a cashier can sit instead of standing. When pregnant workers have asked for these temporary adjustments, however, too often employers have denied their requests. Instead of receiving simple accommodations that would allow them to continue working safely, many pregnant workers have been forced onto unpaid leave or out of a job entirely—at the moment they and their families can least afford it. Women in low-paid jobs—disproportionately women of color—may be especially likely to need pregnancy accommodations, given the physically demanding nature of many low-paid jobs and a culture of inflexibility in many low-paid workplaces. Women are especially likely to be the **primary breadwinner** in low-income families, and income loss during pregnancy can impose particularly severe consequences on these families. Women of color and LGBTQI+ individuals also face additional barriers in accessing pregnancy accommodations as a result of intersecting discrimination.

While the PDA and subsequent Supreme Court cases interpreting the law have provided important protections for pregnant workers, it is often unclear when federal law requires employers to provide a pregnant worker an accommodation. The need for clear legal protections for pregnant workers who need workplace accommodations has only increased with COVID-19. As information continues to emerge about the increased risks of COVID-19 to pregnant people, pregnant workers are seeking, and far too often being denied, accommodations like proper personal protective equipment, telework, moving to a less crowded work area or changing start times so as not to risk riding public transit during peak hours.

THE SOLUTION

State laws should prohibit pregnancy discrimination and explicitly provide that employers must make reasonable accommodations to employees who have limitations stemming from pregnancy, childbirth, or related conditions. Such laws would ensure that employees with medical needs arising out of pregnancy are treated as well in the workplace as those with medical needs arising out of non-pregnancy-related disabilities.

BASIC ELEMENTS OF THE SOLUTION

- Prohibit employers from discriminating on the basis of pregnancy, childbirth, or related conditions.
- Require employers to treat those affected by pregnancy, childbirth, or related conditions as well as they treat those similar in ability or inability to work.

- Require employers to provide reasonable accommodations to employees who have limitations arising from pregnancy, childbirth, or related conditions, unless the accommodation would impose an undue hardship on the employer.
 - Prohibit employers from discriminating against an employee because she needs a reasonable accommodation because of pregnancy, childbirth, or related conditions.
 - Prohibit employers from requiring a pregnant employee to accept work changes based on pregnancy when the employee does not have any medical need for the modification and does not want the modification.
 - Prohibit employers from forcing a pregnant employee to take leave when another reasonable accommodation would allow her to continue to work. While the employee would remain free to choose to use any leave that she has available, the employee would not be forced onto leave against her will.
- pregnancy accommodations are, by definition, short-term; many of these accommodations are low and no cost.
- [Thirty states and the District of Columbia](#) have laws that require at least some employers to provide accommodations to pregnant workers: Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and West Virginia. At least five cities—Central Falls, Rhode Island; New York, New York; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; and Providence, Rhode Island—have also passed pregnancy accommodations bills. Many of these provisions have passed within the past decade, with bipartisan and frequently unanimous support.

TALKING POINTS ON THE SOLUTION

- No one should have to choose between a paycheck and a healthy pregnancy. Providing reasonable accommodations to pregnant workers with medical needs is vital to supporting families and our economy.
- Workplace accommodations help safeguard healthy pregnancies and prevent harm to higher risk pregnancies. They are an important step toward reducing [disproportionately high rates](#) of maternal and infant mortality for Black women and other women of color.
- The right to pregnancy accommodations is too important to take the chance the law will be misinterpreted. Pregnancy accommodation laws would make it unmistakable that pregnant workers are entitled to reasonable accommodations when they need them.
- Pregnancy accommodation laws rely on an already familiar and easy-to-apply legal standard modeled after the Americans with Disabilities Act (ADA) and provide much needed clarity to employers about their responsibility to accommodate pregnant workers. As a [South Carolina business journal article](#) said, pregnancy accommodation laws are a “development that all workers and managers can cheer.”
- Accommodating pregnant workers is not only good for working women and families, it is good for business. U.S. Department of Labor studies show that workplace policies providing reasonable accommodations improve recruitment and retention, increase employee satisfaction and productivity, reduce absenteeism, and improve workplace safety. And since pregnancy is temporary,