



the work and family legal center

80 Maiden Lane, Suite 606, New York, NY 10038 | t: 212.430.5982 | f: 212.430.5983 | info@abetterbalance.org | abetterbalance.org

STATE LEGISLATIVE FACT SHEET:

NH Pregnant Workers Fairness Act: Pregnancy Discrimination in New Hampshire

Pregnant women should not have to fear losing their jobs when they can continue working with a reasonable adjustment. New legislation, the bipartisan New Hampshire pregnant workers fairness act, SB 488 (NH PWFA) would ensure that pregnant workers are treated fairly on the job.

New Hampshire Needs Strong Measures to Support Women in the Workforce

- Over half of all pregnant women and new mothers in New Hampshire are in the labor force and earning income to support their families.¹
- Three-quarters of women entering the workforce in our country will be pregnant and employed at some point in their lives.² Some of these women—especially those in physically strenuous jobs—will face a conflict between their duties at work and the demands of pregnancy.
- Pregnant women are pushed out of their jobs and often treated worse than other employees with similar limitations because the law does not explicitly guarantee reasonable accommodations for pregnancy and childbirth.³

Proposed Legislation Would Ensure that New Hampshire Law Covers Pregnant Women Who Need Minor Adjustments at Work

- The NH PWFA amends Chapter 354-A, the Law Against Discrimination, of the NH Revised Statutes to require employers to accommodate conditions related to pregnancy or childbirth, including breastfeeding, unless doing so would pose an undue hardship on the employer.
 - Accommodations include allowing more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, seating, temporary transfer to a less strenuous or hazardous position, job restructuring, light duty, break time and private non-bathroom space for expressing breast milk, assistance with manual labor, or modified work schedules.
- Workers with disabilities must already be accommodated, so this law will ensure equal treatment.

Need for Greater Legal Clarity Has Been Recognized Across the Country

- Many states and localities have added explicit legal protections so that pregnant women can obtain the immediate relief they need on the job, rather than forcing them to prove unequal treatment—an often lengthy and expensive proposition—in order to secure the modest and time-sensitive accommodations they need to stay healthy.⁴
- Laws in Alaska, California,⁵ Connecticut, Delaware, Hawaii, Illinois, Louisiana, Maryland, Minnesota, Nebraska, New Jersey, New York, North Dakota, Rhode Island, Texas, West Virginia, New York City, NY, Philadelphia, PA, Providence, RI and Central Falls, RI, and Washington, DC also explicitly require certain employers to provide some accommodations to pregnant employees.⁶
- Proposed federal legislation (the Pregnant Workers Fairness Act) has garnered broad support from over 100 organizations⁷ and has over 100 cosponsors in the House of Representatives.⁸ Both Senator Jeanne Shaheen (D) and Senator Kelly Ayotte (R) cosponsor the US Senate proposed legislation.⁹

Legislation Will Benefit Working Women, their Families, their Employers and the Public

- Women who need income but lack accommodations are often forced to continue working under unhealthy conditions, risking their own health as well as the health of their babies.¹⁰
- The NH PWFA will promote women's economic security during a critical time that is often filled with financial hardship,¹¹ and would save taxpayers money in the form of unemployment insurance and other public benefits.
- Employers benefit too, from reduced turnover and increased productivity.¹² The NH PWFA would provide clarity so employers can anticipate their responsibilities and avoid costly litigation.
- California and Hawaii reported decreases in litigation after enacting similar legislation.¹³



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¹ 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>.

² Alexandra Cawthorne & Melissa Alpert, *Labor Pains: Improving Employment and Economic Security for Pregnant Women and New Mothers*, (Aug. 2009), http://www.americanprogress.org/issues/2009/08/pregnancy_support.html.

³ See National Women's Law Center & A Better Balance, *It Shouldn't Be A Heavy Lift: Fair Treatment for Pregnant Workers*, (June 2013), <http://www.abetterbalance.org/web/images/stories/ItShouldntBeAHeavyLift.pdf>; Rachel Swarns, *Doctor Says No Overtime; Pregnant Workers' Boss Says No Job*, NYTimes (October 19, 2014); MotherWoman, *Motherwoman's Stories of Pregnancy Discrimination*, (2014).

⁴ See A Better Balance, *Pregnant and Jobless: Thirty-Seven Years After Pregnancy Discrimination Act, Pregnant Women Still Choose Between A Paycheck and A Healthy Pregnancy* (Oct. 2015), <http://abetterbalance.org/web/images/stories/Documents/fairness/reports/PregnantandJobless.pdf>; Dina Bakst, *Peggy Young's Victory is Not Enough*, U.S. News and World Report (March 26, 2015), <http://www.usnews.com/opinion/economic-intelligence/2015/03/26/peggy-young-supreme-court-victory-is-not-enough-for-pregnant-workers>.

⁵ Noreen Farrell, *Expecting A Baby, Not a Lay-Off: Executive Summary* (May 2012), <http://www.equalrights.org/wp-content/uploads/2013/02/Expecting-A-Baby-Not-A-Lay-Off-Why-Federal-Law-Should-Require-the-Reasonable-Accommodation-of-Pregnant-Workers.pdf>.

⁶ Alaska Stat. § 39.20.520(a); Conn. Gen. Stat. § 46a-60(a)(7); 19 Del. Code § 711(a); Haw. Admin. Rules § 12-46-107; 75 Ill Comp. Stat. 5/2-102 (J)-(K); La. R.S. 23:342(4); Md. Code Ann. State Gov't § 20-609; Minn. Stat. §§ 181.939, 181.9414; Neb. Rev. Stat. §§ 48-1102(11), 1107.02(2); N.J. Stat. §§ 10:5-3.1, 10:5-12(s); 2015-S8, to be codified at NY Exec. Law §§ 292, 296; N.D. Cent. Code § 14-02.4-03; 2015-S 0276 Substitute A as Amended, to be codified at R.I. Gen. Laws § 28-5-7.4; Tex. Local Gov't Code § 180.004(b); W. Va Code § 5-11B; N.Y.C. Admin. Code § 8-107(22); Phila. Code § 9-1128; Ordinance to be codified at Providence, R.I., Code § 16-57; Central Falls, R.I. Code § 12-5; Protecting Pregnant Workers Fairness Act of 2014, D.C. Act. 20-458 (2014).

⁷ Pregnant Workers Fairness Act Letter of Support (July 21, 2015), <http://www.nationalpartnership.org/research-library/workplace-fairness/pregnancy-discrimination/pregnant-workers-fairness-act-coalition-letter.pdf>.

⁸ For more information, visit <https://www.congress.gov/bill/114th-congress/house-bill/2654/cosponsors>.

⁹ For more information, visit <https://www.congress.gov/bill/114th-congress/senate-bill/1512/related-bills>.

¹⁰ Renee Bischoff & Wendy Chavkin, *The Relationship between Work-Family Benefits and Maternal, Infant and Reproductive Health: Public Health Implications and Policy Recommendations*, (June 2008), pg. 13-17, http://otrans.3cdn.net/70bf6326c56320156a_6j5m6fupz.pdf; see also Mayo Clinic Staff, *Working During Pregnancy: Do's and Don'ts*, <http://www.mayoclinic.com/health/pregnancy/WL00035>; see also Joanna L. Grossman, *Pregnancy, Work, and the Promise of Equal Citizenship*, 98 Geo. L.J. 567, 582-84 (March 2010).

¹¹ Almost half of all babies born in the United States are born to families receiving WIC food supplements. See Kimberly Brown, *Shocking Need: American Kids Go Hungry*, ABC News, (August 24, 2011),

http://abcnews.go.com/US/hunger_at_home/hunger-home-american-children-malnourished/story?id=14367230#.Tu-55mC4Iy4.

¹² Job Accommodation Network, *Workplace Accommodations: Low Cost, High Impact*, pg. 3, <http://www.jan.wvu.edu/media/LowCostHighImpact.doc>.

¹³ Equal Rights Advocates, *Expecting A Baby, Not A Lay-Off*, pg. 25, <http://www.equalrights.org/media/2012/ERA-PregAccomReport.pdf>.