



September 16, 2020

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Vanita Gupta

**Vote YES on H.R. 2694, the Pregnant Workers Fairness Act
and NO on any Motion to Recommit**

Dear Representative:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 220 national organizations to promote and protect the civil and human rights of all persons in the United States, we write to urge you to **vote YES on H.R. 2694, the Pregnant Workers Fairness Act, and NO on any Motion to Recommit.**

Ensuring the economic security and dignity of working people in this country is a priority of The Leadership Conference and is essential for the protection and advancement of civil and human rights for all. Yet despite passage of the Pregnancy Discrimination Act of 1978 more than 40 years ago, many pregnant workers in the United States are still vulnerable to adverse employment actions that force them to choose between a healthy pregnancy and a job. The bipartisan Pregnant Workers Fairness Act would strengthen existing federal protections against pregnancy discrimination by making it clear that employers must make reasonable accommodations for pregnant workers.

Pregnant people make up a small share of the workforce, and some will never require an accommodation to perform their jobs, but too often pregnant workers have been denied accommodations — such as a stool to sit on, a schedule change, or a break from heavy lifting — sometimes with tragic consequences for their health and the health of their pregnancies. Pregnant workers who request accommodations have also been fired or pushed onto unpaid leave, cutting off both a paycheck and health insurance just when both are needed the most. The health and economic consequences of this form of discrimination are even more heightened during the current COVID-19 pandemic, especially for pregnant people working in public-facing or essential jobs.ⁱ The 10 most common occupations for pregnant workers, for example, include jobs in education, health care, and retail, including as restaurant servers, cashiers, and salespeople.ⁱⁱ

Without access to reasonable accommodations, pregnant workers can face serious health risks, including premature labor and miscarriage. Black women, for example, are particularly vulnerable to pregnancy discrimination and are at higher risk for pregnancy-related complications, many of which may require sometimes modest, workplace accommodations. According to the National Partnership for Women & Families, between 2011 and 2015, Black women filed nearly 30 percent of all pregnancy discrimination charges with the Equal Employment Opportunity Commission, even though Black women made up only 14 percent

of women in the workforce ages 16 to 54.ⁱⁱⁱ While loss of a paycheck or health insurance can have severe consequences for any pregnant person, for Black women it can be dire. Already, structural racism in health care puts Black women at risk for a range of negative health outcomes, including higher risk of maternal death.^{iv} Black women are up to four times more likely to die from pregnancy-related conditions than non-Hispanic white women, and the death rate for Black infants is twice that of infants born to non-Hispanic white mothers.^v Depriving women of both their wages and access to health insurance during pregnancy does nothing to alleviate this crisis.

In 2015, the Supreme Court in *Young v. United Parcel Service* held that the failure to make accommodations for pregnant workers with medical needs arising out of pregnancy may sometimes violate the Pregnancy Discrimination Act.^{vi} *Young* was an important decision, but courts have interpreted the legal standard it set out narrowly, leaving many pregnant workers without protection. A review of pregnancy accommodation cases conducted by A Better Balance following the *Young* decision found that more than two-thirds of courts held employers were not obligated to accommodate pregnant workers under the Pregnancy Discrimination Act.^{vii} Lack of clarity about how to apply the *Young* standard also means that pregnant workers are still not getting the accommodations they need to continue working safely on the job.

The Pregnant Workers Fairness Act would finally make clear employers' obligation to provide reasonable accommodations to pregnant workers so they can continue working without jeopardizing either their health or the economic security of their families. The bill would:

- Clarify that employers must make reasonable accommodations for employees who have limitations related to pregnancy, childbirth, or a related medical condition, unless the accommodation would impose an undue hardship on the employer;
- Protect pregnant workers from being fired, forced to take paid or unpaid leave, or retaliated against if they request or use an accommodation; and
- Require an interactive process between employers and pregnant workers to determine appropriate reasonable accommodations, similar to the Americans with Disabilities Act, which is already familiar to employers and employees.

By providing a clear rule for pregnancy accommodations, the Pregnant Workers Fairness Act supports pregnant workers and promotes economic security, workplace fairness, and healthy families. We urge you to vote YES on H.R. 2694, the Pregnant Workers Fairness Act, and NO on any Motion to Recommit. If you have any questions, please contact Gaylynn Burroughs, Senior Policy Counsel, at burroughs@civilrights.org.

Sincerely,



Vanita Gupta
President and CEO



LaShawn Warren
Executive Vice President for Government
Affairs

ⁱ Bryce Covert, “I am Very Scared”: What It’s Like for Pregnant Essential Workers in the Pandemic, *Vox* (June 15, 2020), <https://www.vox.com/2020/6/15/21288987/pregnant-coronavirus-covid-essential-workers>.

ⁱⁱ Morgan Harwood and Sarah David Heydemann, National Women’s Law Center, *By The Numbers: Where Do Pregnant Women Work?* (Aug. 2019), <https://nwlc.org/wp-content/uploads/2019/08/Pregnant-Workers-by-the-Numbers-v3-1.pdf>.

ⁱⁱⁱ National Partnership for Women & Families, *By the Numbers: Women Continue to Face Pregnancy Discrimination in the Workplace* (Oct. 2016), <http://www.nationalpartnership.org/our-work/resources/economic-justice/pregnancy-discrimination/by-the-numbers-women-continue-to-face-pregnancy-discrimination-in-the-workplace.pdf>.

^{iv} See Jamila Taylor et al., *Eliminating Racial Disparities in Maternal and Infant Mortality: A Comprehensive Blueprint* (May 2, 2019), <https://www.americanprogress.org/issues/women/reports/2019/05/02/469186/eliminating-racial-disparities-maternal-infant-mortality/>.

^v *Id.*

^{vi} 135 S.Ct. 1338 (2015).

^{vii} Dina Bakst, Elizabeth Gedmark, and Sarah Brafman, A Better Balance, *Long Overdue: It Is Time for the Federal Pregnant Workers Fairness Act*(May 2019), <https://www.abetterbalance.org/wp-content/uploads/2019/05/Long-Overdue.pdf>.