



## FACT SHEET:

### Pregnancy Discrimination in Kentucky

No woman in Kentucky should have to choose between the health of her pregnancy and her job. Yet, this is happening all too often in the Commonwealth. The Kentucky Pregnant Workers Fairness Act (KY PWFA) would ensure that pregnant workers are given fair treatment on the job and would promote equal opportunity in the workplace.

#### Kentucky's Economy Needs Strong Measures to Support Women in the Workforce

- Kentucky ranks **48th in the country** for female labor force participation rates.<sup>1</sup> The Commonwealth must increase the participation of women, including pregnant women, in the workforce to strengthen its economy.
- Three-quarters of women entering the workforce in our country will be pregnant and employed at some point in their lives.<sup>2</sup> Some of these women—especially those in physically strenuous jobs—will face a conflict between their duties at work and the demands of pregnancy.
- It is estimated that **more than one quarter million** pregnant workers are denied requests for accommodations each year, and many more do not even request changes at work, likely because of fear of retaliation.<sup>3</sup>
- 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.
  - Police Officer Lyndi Trischler, of Florence, KY was pushed out of her job at five months pregnant when her doctor ordered her to discontinue her physically demanding patrol work. She was told she would lose her health insurance. Despite having a pregnancy-related disability, the City refused to engage with Officer Trischler, instead citing a new city policy that denies any employee light duty, even if available, unless they have an on-the-job injury. The economic hardship was devastating and Officer Trischler had to move out of her apartment.<sup>4</sup>
  - A pregnant retail worker was rushed to the emergency room when she fainted on the job because her boss would not let her drink water.<sup>5</sup>

#### Proposed Kentucky Legislation Would Clarify that Kentucky Law Protects Women Who Need Minor Assistance at Work

- The KY PWFA would explicitly require employers to reasonably accommodate employees with limitations related to pregnancy when necessary to keep a worker safe, healthy, and employed.
- The proposed law would provide certainty and clarity for employees and employers alike.

#### Need for Greater Legal Clarity Has Been Recognized Across the Country

- Alaska, California, Connecticut, Delaware, Hawaii, Illinois, Iowa, Louisiana, Maryland, Minnesota, New Jersey, Texas, West Virginia, New York City, NY, Philadelphia, PA, Providence, RI and Central Falls, RI all explicitly require certain employers to provide some form of accommodations to pregnant employees.<sup>6</sup>
- Proposed federal legislation (the Pregnant Workers Fairness Act) has garnered broad support from almost 150 organizations.<sup>7</sup>



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## 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.<sup>8</sup> Physically demanding work, where accommodations are more often necessary but too often unavailable, has been associated with an increased risk for preterm birth and low birth weight.<sup>9</sup>
- Proposed legislation will promote family economic security<sup>10</sup> during a critical time that is often filled with financial hardship, and would save taxpayers money in the form of unemployment insurance and other public benefits.
- Employers benefit too,<sup>11</sup> from reduced turnover and increased productivity.<sup>12</sup> Legislation would provide clarity so employers can anticipate their responsibilities and avoid costly litigation.
- After California passed similar legislation, litigation of pregnancy cases decreased, even as pregnancy discrimination cases around the country were increasing.<sup>13</sup> The Hawaii Civil Rights Commission recently reported a similar reduction in pregnancy discrimination complaints and litigation after enactment.
- Nationwide, pro-life & pro-choice groups both support legal protections ensuring reasonable accommodations for pregnant workers.<sup>14</sup>

**For more information on this legislation, please contact Director of the Southern Office, Elizabeth Gedmark, at 615-915-2417 or [egedmark@abetterbalance.org](mailto:egedmark@abetterbalance.org).**

<sup>1</sup> Institute for Women's Policy Research, Kentucky State Profile, (2009), <http://www.iwpr.org/initiatives/womens-economic-status-in-the-states/sws-2009/kentucky-2009-1>.

<sup>2</sup> Alexandra Cawthorne & Melissa Alpert, *Labor Pains: Improving Employment and Economic Security for Pregnant Women and New Mothers*, (Aug. 2009), <https://www.americanprogress.org/issues/women/report/2009/08/03/6599/labor-pains/>.

<sup>3</sup> Bryce Covert, "Why Are Workplaces Still Not Ready for Pregnant Workers?," January 31, 2014, available at: <http://thinkprogress.org/economy/2014/01/31/3235471/pregnant-workers-survey/>.

<sup>4</sup> Brigid Schulte, *Pregnant women fight to keep jobs via "reasonable accommodations,"* WASHINGTON POST (Aug. 4, 2014), [http://www.washingtonpost.com/national/health-science/pregnant-women-fight-to-keep-jobs-via-reasonable-accommodations/2014/08/04/9eb13654-1408-11e4-8936-26932bcfd6ed\\_story.html](http://www.washingtonpost.com/national/health-science/pregnant-women-fight-to-keep-jobs-via-reasonable-accommodations/2014/08/04/9eb13654-1408-11e4-8936-26932bcfd6ed_story.html); Amanda Van Benschoten, *Police work, pregnancy collide in Ky. Town*, USA TODAY (Aug. 18, 2014), <http://www.usatoday.com/story/news/nation/2014/08/18/police-work-pregnancy-collide-florence-kentucky/14221159/>.

<sup>5</sup> 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>.

<sup>6</sup> A Better Balance, "State and Local Laws Protecting Pregnant Workers," available at: <http://www.abetterbalance.org/web/ourissues/fairness-for-pregnant-workers/310>.

<sup>7</sup> Pregnant Workers Fairness Act Letter of Support (May 23, 2013),

[http://www.nationalpartnership.org/site/DocServer/Pregnant\\_Workers\\_Fairness\\_Act\\_Sign-On\\_Letter\\_1-14-2013.pdf?docID=11681](http://www.nationalpartnership.org/site/DocServer/Pregnant_Workers_Fairness_Act_Sign-On_Letter_1-14-2013.pdf?docID=11681).

<sup>8</sup> 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](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); Brief amici curiae of Health Care Providers, et al., *Young v. UPS*, (September 11, 2014), available at: [http://www.americanbar.org/content/dam/aba/publications/supreme\\_court\\_preview/BriefsV4/12-1226\\_pet\\_amcu\\_hcp-etal.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/BriefsV4/12-1226_pet_amcu_hcp-etal.authcheckdam.pdf).

<sup>9</sup> See, e.g. Monique van Beukering et al., *Physically Demanding Work and Preterm Delivery: A Systematic Review and Meta-Analysis*, Int'l Archives of Occupational & Env'tl. Health (2014) (discussing association of prolonged standing, lifting and carrying, physical exertion, and a combination of those tasks with preterm birth).

<sup>10</sup> Brief amici curiae of American Civil Liberties Union and A Better Balance, et al., *Young v. UPS*, (September 11, 2014), available: [http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226\\_tsac\\_aclu.pdf](http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226_tsac_aclu.pdf).

<sup>11</sup> Brief amici curiae of U.S. Women's Chamber of Commerce, et al., *Young v. UPS*, (September 11, 2014), available at:

[http://www.americanbar.org/content/dam/aba/publications/supreme\\_court\\_preview/BriefsV4/12-1226\\_pet\\_amcu\\_uswcc-etal.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/BriefsV4/12-1226_pet_amcu_uswcc-etal.authcheckdam.pdf).

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

<sup>13</sup> Equal Rights Advocates, *Expecting A Baby, Not A Lay-Off*, pg. 25, <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>.

<sup>14</sup> Brief amici curiae of 23 Pro-Life Organizations and the Judicial Education Project, *Young v. UPS*, (September 11, 2014), available at:

[http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226\\_tsac\\_23\\_Pro\\_Life\\_Organizations\\_and\\_Judicial\\_Education\\_Project.pdf](http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226_tsac_23_Pro_Life_Organizations_and_Judicial_Education_Project.pdf); Brief amici curiae of Health Care Providers, et al., *Young v. UPS*, (September 11, 2014), available at:

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