



## **Workplace Accommodations for Pregnant Workers (HB 1417)**

Pennsylvania lags behind most of the country by failing to ensure basic workplace protections for pregnant employees.

Women make up about half of the workforce, and working women are the primary or sole breadwinners in 40% of American families. Yet women still face obstacles in the workplace that compromise their ability to provide for their families. One of those barriers is pregnancy discrimination, including an employer's refusal to grant an employee's reasonable request for a temporary, minor accommodation related to her pregnancy, childbirth, or a related medical condition.

Women report pregnancy discrimination across races and ethnicities, but Black women are disproportionately affected. According to the National Partnership for Women and Families, nearly three in 10 charges of pregnancy discrimination (28.6 percent) were filed by Black women from 2011-2015, yet Black women comprise only 14 percent of women ages 16 to 54 in the workforce.

Women in lower-wage industries, including food services, health care and social assistance, and retail, also reported disproportionate rates of discrimination.

### **Refusal to Provide an Accommodation Harms Women and Babies**

Not every pregnant woman will need an accommodation in the workplace. The most common temporary accommodations doctors recommend for some pregnant workers include access to drinking water in the workplace, assistance lifting heavy objects, a chair to sit in periodically, restroom breaks, and less bending.

An employer's refusal to grant a reasonable accommodation forces pregnant workers to choose between earning a paycheck and maintaining a healthy pregnancy. Some women continue to work under conditions that are hazardous to their health because they need the paycheck. Others use up all their leave time before childbirth, or feel forced to leave their jobs entirely in order to protect the pregnancy. Some employers will not allow a woman to work once her medical provider has indicated that she needs an accommodation in the workplace.

## **Current Law Fails to Adequately Protect Pregnant Workers**

Some pregnant workers have some legal protections if their employer refuses to grant their request for an accommodation, but far too many women fall through the gaps in the laws.

The federal Pregnancy Discrimination Act (PDA) of Title VII and the Pennsylvania Human Relations Act (PHRA) prohibit employers from discriminating against workers on the basis of pregnancy, childbirth, or a related medical condition. However:

- The PDA only applies to employers with 15 or more employees;
- The PHRA only applies to employers with 4 or more employees; and
- Under both laws, women have to provide a specific type of evidence of discrimination — that is, a similarly situated, non-pregnant employee with virtually the same job and limitations who received better treatment from the employer — that is very difficult to find.

The federal Americans with Disabilities Act (ADA) may also provide protections. However, pregnancy itself is not a disability, and it is unclear how the ADA applies to pregnant women who only need minor accommodations in the workplace, like access to water.

## **Pennsylvania is Falling Behind**

At least 23 states and DC and 4 cities have adopted reasonable accommodation laws. The majority of Pennsylvania's neighbors, including New Jersey, New York, Maryland, Delaware, and West Virginia, have passed laws to protect pregnant workers who need reasonable accommodations in the workplace.

Currently, some workers in Philadelphia and Pittsburgh have more rights than workers living elsewhere in Pennsylvania, because Philadelphia's Fair Practice Ordinance requires employers to provide reasonable accommodations to pregnant employees, and Pittsburgh's law requires reasonable accommodations for employees who work for the city or through city contracts.

The policy proposed to clarify workplace accommodations for pregnant workers include business protections to ensure employers only have to comply as long the requested accommodation does not impose an undue hardship.

## **For More Information**

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