

## STATE LEGISLATIVE FACT SHEET

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### **MA Pregnant Workers Fairness Act: Pregnancy Discrimination in Massachusetts**

Pregnant women should not have to fear losing their jobs when they can continue working with a reasonable adjustment. New legislation would ensure that pregnant workers are treated fairly on the job. At a time when families are struggling to make ends meet, Massachusetts must promote equal opportunity in the workplace by leveling the playing field for women workers, including pregnant employees.

#### **Massachusetts Needs Strong Measures to Support Women in the Workforce**

- Over half of all pregnant women and new mothers in Massachusetts are in the labor force and earning income to support their families.<sup>i</sup>
- Three-quarters of women entering the workforce in our country will be pregnant and employed at some point in their lives.<sup>ii</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.
- Pregnant women are pushed out of their jobs and often treated worse than other employees with similar limitations because the law does not guarantee reasonable accommodations for pregnancy and childbirth.
  - A pregnant Massachusetts woman was not allowed to take breaks to sit—even after she fainted multiple times at her job.<sup>iii</sup>
  - A pregnant factory worker was kicked out of her job after she asked to avoid overtime temporarily upon her doctor’s orders.<sup>iv</sup>
  - A supermarket employee was pushed onto disability leave when she asked for a temporary reprieve from heavy lifting while pregnant. The disability payments and her health insurance ended one month before she gave birth.<sup>v</sup>

#### **Proposed Legislation Would Clarify that Massachusetts Law Covers Pregnant Women Who Need Minor Adjustments at Work**

- The MA PWFA amends Section 4 of chapter 151B of the General Law, preventing discrimination based on pregnancy and requiring employers to accommodate conditions related to pregnancy or childbirth, including the need to express breast milk for a nursing child, unless such doing so would pose an undue hardship on the employer.
  - Accommodations may include allowing a pregnant worker to use a stool while working at a cash register, or carry a bottle of water while on the job, without repercussions. For the full legislative language, email [policy@motherwoman.org](mailto:policy@motherwoman.org).
- Workers with disabilities, including temporary impairments, must already be accommodated, so this law will ensure equal treatment.
- The proposed law would provide certainty for employees and employers alike.

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

- California’s decade-old law guaranteeing pregnant women reasonable accommodations in the workplace has been used countless times to help workers stay healthy and keep their jobs.<sup>vi</sup>
- Laws in Alaska, Connecticut, Delaware, Hawaii, Illinois, Louisiana, Maryland, Minnesota, New Jersey, 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.<sup>vii</sup>

- Proposed federal legislation (the Pregnant Workers Fairness Act) has garnered broad support from over 100 organizations<sup>viii</sup> and has over 100 cosponsors in the House of Representatives.<sup>ix</sup>

### **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>x</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>xi</sup>
- Stress from job loss can increase the risk of a premature baby and/or a baby with low birth weight;<sup>xii</sup> risks that may be avoided with a simple modification to keep a woman on the job.
- Proposed legislation will promote women's economic security during a critical time that is often filled with financial hardship,<sup>xiii</sup> and would save taxpayers money in the form of unemployment insurance and other public benefits.
- Employers benefit too, from reduced turnover and increased productivity.<sup>xiv</sup> Legislation would provide clarity so employers can anticipate their responsibilities and avoid costly litigation.
- After California passed similar legislation, litigation of pregnancy cases actually decreased, even as pregnancy discrimination cases around the country were increasing.<sup>xv</sup> The Hawaii Civil Rights Commission recently reported a similar reduction in pregnancy discrimination complaints and litigation after enactment.

### **Lead Sponsors: Senator Joan Lovely, Representative Ellen Story**

<sup>i</sup> 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>.

<sup>ii</sup> 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](http://www.americanprogress.org/issues/2009/08/pregnancy_support.html).

<sup>iii</sup> MotherWoman, *Motherwoman's Stories of Pregnancy Discrimination*, (2014).

<sup>iv</sup> Rachel Swarns, *Doctor Says No Overtime; Pregnant Workers' Boss Says No Job*, NYTimes (October 19, 2014).

<sup>v</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>vi</sup> Noreen Farrell, *Expecting A Baby, Not a Lay-Off: Executive Summary* (May 2012), <http://www.equalrights.org/media/2012/PWFA-ExecSummary.pdf>.

<sup>vii</sup> Alaska Stat. § 39.20.520(a); Conn. Gen. Stat. § 46a-60(a)(7); 19 Del. Code § 711(a); Haw. Admin. Rules § 12-46-107; Ill. Comp. Stat. Ann. § 775 5/2- 102(H); La. R.S. 23:342(4); Md. Code Ann. State Gov't § 20-609; Minn. Stat. § 181.941; N.J. Stat. §§ 10:5-3.1, 10:5-12(s); 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; D.C. Council A. 20-458, 2013 Leg., Period 20 (D.C. 2014) (this Act was signed by the Mayor, but awaits approval from Congress). For information about Central Falls, RI, see: <http://www.abetterbalance.org/web/blog/entry/localities-large-and-small-are-acting-to-protect-pregnant-workers>.

<sup>viii</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>ix</sup> For more information, <http://www.govtrack.us/congress/bills/113/hr1975>.

<sup>x</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).

<sup>xi</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 & Envtl. Health (2014) (discussing association of prolonged standing, lifting and carrying, physical exertion, and a combination of those tasks with preterm birth).

<sup>xii</sup> March of Dimes, *Stress and Pregnancy* (January 2008/January 2010), [http://www.marchofdimes.com/pregnancy/lifechanges\\_indepth.html](http://www.marchofdimes.com/pregnancy/lifechanges_indepth.html).

<sup>xiii</sup> 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>.

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

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

### **FOR MORE INFORMATION ON THIS LEGISLATION:**

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### **FOR MORE INFORMATION ON THE NATIONAL MOVEMENT FOR PREGNANT WORKERS FAIRNESS:**

[www.abetterbalance.org/web/ourissues/fairness-for-pregnant-workers](http://www.abetterbalance.org/web/ourissues/fairness-for-pregnant-workers)