Leveling the Playing Field:
The Connection Between the Americans with Disabilities Act and the Pregnant Workers Fairness Act

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Most women are able to work through their pregnancies and perform their jobs without modification, but some pregnant workers develop pregnancy-related conditions that require minor adjustments at work. Pregnant women should be treated the same as other workers with temporary health conditions. Sadly, this is not the case for many pregnant women who are forced out of their jobs and denied reasonable accommodations that would enable them to continue working.

Modeled on the Americans with Disabilities Act, the Pregnant Workers Fairness Act would address the lack of protection for women with pregnancy-related limitations by helping to ensure they are treated the same as similarly-abled workers. By doing so, it would promote the health and economic security of pregnant women, their babies and their families.

The Americans with Disabilities Act:

Ensuring Equal Opportunity and Full Participation by Prohibiting Discrimination Against Workers with Disabilities, Including Temporary Impairments

The Americans with Disabilities Act (ADA) prohibits employers from discriminating against workers with disabilities, including temporary conditions. The ADA also requires employers to provide reasonable workplace accommodations to workers with temporary disabilities. Since its passage 22 years ago, this critical civil rights law has made a difference for millions of Americans and families.

The ADA passed with broad bipartisan support and was signed into law by President George H.W. Bush in 1990. In subsequent years, U.S. Supreme Court decisions narrowed the definition of “disability” under the ADA, denying countless workers civil rights protections. As a result, in 2008, Congress passed the ADA Amendments Act to reinstate critical protections by expanding the definition of “disability” – in part, to include transitory or episodic impairments like hypertension. The ADA Amendments Act also had widespread bipartisan support and was signed into law by President George W. Bush. Both the ADA and ADA Amendments Act were supported by diverse coalitions of disability, civil rights and business groups including the Chamber of Commerce.

Provisions of the ADA:

- Applies to private employers with 15 or more employees, state and local governments, employment agencies and labor unions.
- Defines “reasonable accommodation” as a modification or adjustment to a job or work environment that will enable a qualified

“The [ADA Amendments Act] strikes the right balance between protections for individuals with disabilities and the obligations and requirements of employers.”

— Chamber of Commerce, September 2008
applicant or employee with a disability to participate in the application process or to perform essential job functions.

- Does not require an employer to reallocate essential functions of a job.
- Does not require an employer to make an accommodation if it would impose “undue hardship,” which is defined as an “action requiring significant difficulty or expense,” taking into consideration factors such as the nature and cost of the accommodation in relation to the size, resources and structure of the employer’s operation.\(^7\)

### The Pregnant Workers Fairness Act:

**Ensuring Equal Opportunity for Workers with Pregnancy-Related Impairments**

The Pregnancy Discrimination Act of 1978 (PDA) outlawed pregnancy discrimination, and Congress made it clear when it passed that sex discrimination includes discrimination based on pregnancy, childbirth or related medical conditions.\(^8\) However, employers often refuse to provide reasonable accommodations for pregnant workers, and courts have interpreted legal protections under both the PDA and the ADA narrowly.

The Pregnant Workers Fairness Act (PWFA) would address this loophole to help ensure that workers with pregnancy-related limitations are entitled to reasonable accommodations that allow them to stay on the job while caring for their own health and safety and that of their children.

- The PWFA follows the ADA model and clarifies protections for pregnant workers.
- As under the ADA, employers are not required to provide an accommodation if it would impose undue hardship. In the PWFA, undue hardship is defined as it is in the ADA.\(^9\)

### Providing a Clear Standard for Workers and Employers

**In California, providing reasonable accommodations for pregnant workers has been law since 2000. Pregnancy discrimination charges have dropped since the law passed – an indication that the law helps employers and employees resolve issues without litigation.**\(^10\)

According to a recent report, the cost of these accommodations is significantly lower than most employers expect.\(^11\) More than half of the businesses surveyed (57 percent) reported that the accommodations they provided to employees with disabilities cost them nothing to make.\(^12\)

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1. 42 U.S.C. §§ 12112(a) & 12102.
2. 42 U.S.C. § 12112(b)(5).
11. Ibid.
12. Ibid.

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