



## HB0661 – Employment Discrimination - Definition of Employer

Presented to Hon. Dereck E. Davis and members of the House Economic Matters Committee  
February 19, 2019 1:00 p.m.

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### POSITION: SUPPORT

NARAL Pro-Choice Maryland **urges the House Economic Matters Ways Committee a favorable report on HB0661 – Employment Discrimination – Definition of Employer**, sponsored by Delegate Julian Ivey. This legislation aims to prohibiting all employers, regardless of business size, from conducting discriminatory acts against employees.

Our organization is an advocate for reproductive health, rights, and justice. We strive to ensure every childbearing individual has the freedom to decide if, when, and how to plan for their future and their families. We honor pregnancy in all its complexity. In doing so, we support pregnant and working mothers as they navigate the challenges of building and supporting their families. This includes ensuring that such individuals are free from unequal treatment in the workplace, particularly pregnancy and other sex-based discriminations.

In the United States, approximately 42% of mothers are primary or sole breadwinners, and an additional 22.4% are co-breadwinners, bringing in 25-49% of family earnings.<sup>1</sup> This is a disproportionate reality for women of color, as only 14.6% of Black mothers bring home less than one-quarter of their family's earnings. In a similar vein, the majority of Black and Latina breadwinning mothers are single parents, which makes their work imperative to their survival as well as to the survival of their children.<sup>2</sup> In the State of Maryland, 28.1% of employed women work in low-wage jobs, placing an additional economic burden on them.<sup>3</sup> Further, in Maryland women's labor force participation rate is 11% lower than men's, in part due to a lack of family-friendly policies.<sup>4 5</sup> Although employers are legally mandated to provide accommodations to people with temporary disability, in response to a request for reasonable and temporary accommodations, **pregnant employees can be terminated, forced to quit, or involuntarily placed on leave, discriminatorily threatening their economic stability, as well as the survival and well-being of their families.**

The Pregnancy Discrimination Act of 1978 amended Title VII of the Civil Rights Act of 1964, to clarify that, in a business of fifteen or more employees, unlawful sex discrimination in employment includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. This act includes the specification that

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<sup>1</sup> Wang, W et al. (May 2013) *Breadwinner Moms: Mothers Are the Sole or Primary Provider in Four-in-Ten Households with Children; Public Conflicted about the Growing Trend*. Pew Research Center. [http://www.pewresearch.org/wp-content/uploads/sites/3/2013/05/Breadwinner\\_moms\\_final.pdf](http://www.pewresearch.org/wp-content/uploads/sites/3/2013/05/Breadwinner_moms_final.pdf)

<sup>2</sup> Glynn, S. J. (2016, December 19). *Breadwinning Mothers Are Increasingly the U.S. Norm*. Retrieved from

<https://www.americanprogress.org/issues/women/reports/2016/12/19/295203/breadwinning-mothers-are-increasingly-the-u-s-norm/>

<sup>3</sup> Status of Women in the States. (2018). *Maryland Report Card Summary*. Retrieved from <https://statusofwomendata.org/explore-the-data/state-data/maryland/>

<sup>4</sup> National Partnership for Women and Families. (2018, January). *Paid Leave Means a Stronger Maryland*. Retrieved from

<http://www.nationalpartnership.org/research-library/work-family/paid-leave/paid-leave-means-a-stronger-maryland.pdf>

<sup>5</sup> U.S. Bureau of Labor Statistics. (2016). *Local Area Unemployment Statistics, Employment status of the civilian noninstitutional population in states by sex, race, Hispanic or Latino ethnicity, marital status, and detailed age 2015*. Retrieved from <http://www.nationalpartnership.org/research-library/work-family/paid-leave/caregiving-brief-gender-labor-force-participation-rate-chart.pdf>

employers must treat pregnant workers as they do workers with temporary disabilities.<sup>6</sup> This federal legislation establishes a standard of non-discriminatory practice in the workplace, which should consistently be upheld in our state.

Currently, business with less than 15 employees can discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, disability, or genetic information. HB0661 changes the definition of employer to be known as a person engaging in an industry or business and that employees as least one individual. This will ensure that a pregnant employee won't be forced to take paid or unpaid leave when a reasonable accommodation would allow for them to continue working and supporting their family. When a pregnant worker is unnecessarily forced to use limited leave time, this leave will no longer be available when it is most needed —to recover from childbirth and bond with a new baby. Some will continue working without the accommodations they need because they can't afford to follow their doctor's advice if it means losing their income—these mothers can be put at risk of serious health consequences. By not providing accommodations or a supportive environment for pregnant employees, it adversely impacts the health and wellness of both child and mother while limiting the ability for a mother to choose what is best for their children.

Many pregnant individuals will need no changes in their jobs during their pregnancies. It is a small percentage of the workforce that will need an accommodation and they should be protected from discrimination.<sup>7</sup> Every pregnant worker has the right to continue their employment, and no individual should have to choose between her job and a healthy pregnancy outcome or the ability to recover or attend to basic post-partum needs. Parenting with dignity is a reproductive issue. For these reasons, **NARAL Pro-Choice Maryland urges a favorable committee report on HB0661.** Thank you for your time and consideration

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<sup>6</sup> U.S. Legal. *Pregnancy Discrimination Act Law and Legal Definition*. Retrieved from <https://definitions.uslegal.com/p/pregnancy-discrimination-act/>

<sup>7</sup> National Women's Law Center. (July 2015) *Pregnant Workers Make Up a Small Share of the Workforce and Can Be Readily Accommodated: A State-by-State Analysis* <http://nwlcc.org/wp-content/uploads/2015/08/state-by-state-analysis-7.23.15.pdf>