



SB0518 – Discrimination in Employment – Pregnancy and Childbirth
Presented to Hon. Delores Kelley and Members of the Senate Finance Committee
February 28, 2019 1:00 p.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland **urges the Senate Finance Committee a favorable report on SB0518, Discrimination in Employment – Pregnancy and Childbirth**, sponsored by Senator Brian Feldman.

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 many children to have, and to parent in good health, safety, and dignity. 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.

Building on existing law, SB0518 clarifies that employers are required to give reasonable accommodation to all pregnant employees with a medical need for an accommodation, not just employees who need accommodations as a result of pregnancy complications. While many women will work through their pregnancies without any need for accommodation, some women will need temporary adjustments to their job duties to continue working safely during pregnancy. However, when pregnant workers have asked for these temporary adjustments, too often employers have denied their requests. Losing a job or being forced onto unpaid leave can be calamitous for these workers and their growing families.

In 2013, Maryland enacted the Reasonable Accommodations for Disabilities Due to Pregnancy Act, which has helped many pregnant workers in Maryland get reasonable accommodations that allow them to continue working during their pregnancies. However, experience demonstrates the law must be clarified and strengthened in several key ways, to ensure women can work safely and support their families through their pregnancies and after giving birth.

This bill is a simple amendment to Maryland's current pregnancy accommodation law that will clarify that employers are required to give reasonable accommodations to all pregnant employees with a medical need for an accommodation, not just employees who need accommodations as a result of pregnancy complications. A medical need for a temporary accommodation can arise from a normally-progressing pregnancy—for example, the need to sit instead of stand during a long shift or to avoid lifting heavy objects to ensure your pregnancy remains healthy. In 2017, a judge in the District of Maryland held that limitations from normal pregnancy do not qualify as pregnancy-related “disabilities” under Maryland’s 2013 pregnancy accommodation law. This bill will make it undeniably clear that all pregnant workers with a medical need for an accommodation are entitled to reasonable accommodations.

SB0518 will ensure that a pregnant employee won’t be forced to take paid or unpaid leave when a reasonable accommodation would allow her to continue to work and support her family. When a pregnant worker is unnecessarily forced to use her limited leave time, this leave will no longer be available when she needs it most—to recover from childbirth and bond with her new baby. Some women 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 women can be put at risk of serious health consequences.

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. 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.¹ In Maryland, 28.1% of employed women work in low-wage jobs, placing an additional economic burden on them.² Further, in our state women's labor force participation rate is 11% lower than men's, in part due to a lack of family-friendly policies.³ ⁴ 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 unlawful sex discrimination in employment includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. This act includes the specification that employers must treat pregnant workers as they do workers with temporary disabilities.⁵ This federal legislation establishes a standard of non-discriminatory practice in the workplace, which should consistently be upheld in our state.

It is our understanding that the Maryland Commission on Civil Rights is support of this legislation, as it had in prior years, and stands ready to assist employers in determining how to best respond to requests for accommodations, and conduct ongoing outreach to employees about their rights and employers about their responsibilities if this legislation is passed into law.

We support pregnant and working mothers as they navigate the challenges of building and supporting their families. No woman should have to choose between her job and a healthy pregnancy outcome or the ability to recover or attend to basic post-partum needs. Therefore, **NARAL Pro-Choice Maryland urges a favorable report on SB0518.** Thank you for your time and consideration.

¹ 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/>

² Status of Women in the States. (2018). Maryland Report Card Summary. Retrieved from <https://statusofwomendata.org/explore-the-data/statedata/maryland/>

³ 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/paidleave/caregiving-brief-gender-labor-force-participation-rate-chart.pdf>

⁴ 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>

⁵ U.S. Legal. Pregnancy Discrimination Act Law and Legal Definition. Retrieved from <https://definitions.uslegal.com/p/pregnancy-discrimination-act/>