

September 11, 2020

Re: Support the Pregnant Workers Fairness Act

Dear Representative:

As organizations dedicated to ending racial injustice and systemic racism, including dismantling the racism that contributes to this country's Black maternal health crisis, we write in strong support of the Pregnant Workers Fairness Act (H.R. 2694). Congress must do all it can to end the prejudice Black pregnant workers and pregnant workers of color continue to face in the workplace. This includes making sure when pregnant workers voice a need for reasonable accommodations that those needs are met rather than penalized and that the workplace is an environment where pregnant workers of color do not fear asking for accommodations.

The Black Maternal Health crisis remains frighteningly persistent and requires immediate attention and multi-faceted solutions. Black women experience maternal mortality rates three to four times higher than white women. The circumstances surrounding this alarming statistic can often be attributed to a lack of access to care, including due to inflexible workplaces, and deep biases in racial understanding. Various social determinants such as health, education, and economic status drastically influence the outcomes of pregnancy for Black women leading to severe pregnancy-related complications. As the Black Mamas Matter Alliance has pointed out "Health is determined in part by our access to social and economic opportunities, the resources and supports that are available in the places where we live, and the safety of our workplaces...however, disparities in these conditions of daily life give some people better opportunities to be healthy than others."¹ Black pregnant workers along with Latinx and immigrant women are disproportionately likely to work in physically demanding jobs that may lead to workers needing modest accommodations to ensure a healthy pregnancy. Too often, however, those requests are refused or ignored, forcing pregnant workers of color to disproportionately contend with unsafe working conditions.

Black mothers have among the highest labor force participation rates in the country and 80 percent of Black mothers are their family's primary breadwinner.² Yet, historically, Black women have been exploited in the workplace, and that exploitation continues to this day. Though Black women only comprise 14.3 percent of the population, nearly thirty percent of pregnancy discrimination complaints are filed by Black women.³ This is because of the multiple forms of discrimination Black workers and other workers of color too often face in the workplace. As scholar Nina Banks has noted, "The legacy of black women's employment in industries that lack worker protections has continued today since black women are concentrated in low-paying, inflexible service occupations..."⁴ Black women in low wage jobs working during pregnancy face little support from employers when safeguards do not address pregnancy related

¹ Black Mamas Matter Alliance and Center for Reproductive Rights, *Black Mamas Matter Advancing The Human Right To Safe And Respectful Maternal Health Care*, at 53 (2018).

² Nina Banks, Economic Policy Institute, *Black Women's Labor Market History Reveals Deep-Seated Race and Gender Discrimination* (Feb. 19, 2019).

³ Nora Ellmann and Jocelyn Frye, Center for American Progress, *Efforts to Combat Pregnancy Discrimination* (Nov. 2, 2019).

⁴ See *supra* note 2.

accommodations. Faced with the threat of termination, loss of health insurance, or other benefits, Black pregnant people are often forced to keep working which can compromise their health and the health of their pregnancy.

The Pregnant Workers Fairness Act will positively impact Black women's health and economic security. When Black pregnant people must continue working without accommodations, they risk miscarriage, excessive bleeding, and other devastating health consequences. Black women have the highest incidence of preterm birth⁵ and yet we know that workplace accommodations such as reducing heavy lifting, bending, or excessive standing can help prevent preterm birth, the leading cause of infant mortality in this country.⁶

Black women are also at higher risk of preeclampsia, which is one of the leading causes of maternal mortality.⁷ We are still learning about how to prevent this dangerous medical condition, yet we know that simply allowing workers to take bathroom breaks can prevent urinary tract infections⁸ which are “strongly associated with preeclampsia.”⁹ Similarly, ensuring pregnant workers can drink a sufficient amount of water can also help pregnant workers maintain their blood pressure,¹⁰ which is critically important since hypertensive disorders (high blood pressure) are also a leading cause of maternal morbidity and mortality.¹¹ By putting a national pregnancy accommodation standard in place, the Pregnant Workers Fairness Act has the potential to improve some of the most serious health consequences Black pregnant people experience. Furthermore, the Pregnant Workers Fairness Act will help remove one of the many barriers Black pregnant people face at work by ensuring they are afforded immediate relief under the law,¹² and not thrown into financial dire straits for needing pregnancy accommodations.

Congress has the opportunity to pass legislation to support rather than subjugate Black pregnant workers and workers of color. We urge every member of the House of Representatives to support

⁵ March of Dimes, *2019 March of Dimes Report Card* (2019).

⁶ Louisville Dep't of Public Health and Wellness, *Pregnant Workers Health Impact Assessment 2019*, at 5 (2019) [hereinafter *Pregnant Workers Health Impact Assessment*], https://louisvilleky.gov/sites/default/files/health_and_wellness/che/pregnant_workers_hia_final_02182019.pdf; see also *Preterm Birth*, World Health Organization (Feb. 29, 2018), <https://www.who.int/news-room/fact-sheets/detail/preterm-birth>.

⁷ Labib Ghulmiyyah and Baha Sibai, *Maternal Mortality From Preeclampsia/Eclampsia*, *Seminars in Perinatology*, Vol. 36, Issue 1, 56–59 (Feb. 2012).

⁸ See *supra* note 6, at 8.

⁹ Sarah Rae Easter, David E. Cantonwine, Chloe A. Zera, Kee-Hak Lim, Samuel I. Parry, Thomas F. McElrath, *Urinary tract infection during pregnancy, angiogenic factor profiles, and risk of preeclampsia*, *American Journal of Obstetrics and Gynecology*, Vol. 213, Issue 3, Mar. 2015, P387.E1-387.E7.

¹⁰ See *supra* note 6, at 6.

¹¹ Emily Jones, *Cardiovascular Disease is the Leading Cause of U.S. Maternal Death*, *Preventive Cardiovascular Nurses Association* (Jan. 16, 2020) (citing Petersen EE, Davis NL, Goodman D, Cox S, Mayes N, Johnston E, Syverson C, Seed K, Shapiro-Mendoza CK, Callaghan WM and Barfield W. *Vital Signs: Pregnancy-Related Deaths, United States, 2011-2015, and Strategies for Prevention, 13 States, 2013-2017*. *MMWR Morb Mortal Wkly Rep.* 2019;68:423-429).

¹² Dina Bakst, Elizabeth Gedmark, and Sarah Brafman, “Long Overdue: It Is Time for the Federal Pregnant Workers Fairness Act,” (2019) <https://www.abetterbalance.org/long-overdue/>.

the Pregnant Workers Fairness Act and by extension, the health and economic wellbeing of Black pregnant workers and pregnant workers of color.

Thank you for your time and attention.

Sincerely,

American Civil Liberties Union
American College of Nurse-Midwives
Association of Maternal & Child Health Programs
Association of Women's Health, Obstetric and Neonatal Nurses
Black Mamas Matter Alliance
California WIC Association
California Breastfeeding Coalition
Children's HealthWatch
Center for American Progress
Center for Reproductive Rights
Community Catalyst
Families USA
Healthy Mothers, Healthy Babies Coalition of Georgia
HealthyWomen
Human Rights Watch
In Our Own Voice: National Black Women's Reproductive Justice Agenda
Majaica, LLC
March for Moms
March of Dimes
National Asian Pacific American Women's Forum (NAPAWF)
National Black Nurses Association
National Birth Equity Collaborative
National Institute for Reproductive Health
National Network of Abortion Funds
National Partnership for Women & Families
National Women's Health Network
Nutrition First - WIC Association of Washington State
National WIC Association
Ohio Black Maternal Health Caucus
Pennsylvania WIC Association
Perinatal Health Equity Foundation
Physicians for Reproductive Health
Planned Parenthood Federation of America
Raising Women's Voices for the Health Care We Need
Shriver Center on Poverty Law
SisterLove Inc.
SisterReach
Society for Maternal-Fetal Medicine
Tara Hansen Foundation
The Afiya Center

URGE: Unite for Reproductive & Gender Equity
U.S. Breastfeeding Committee
WIC Association of NYS, Inc.

Wisconsin WIC Association
YWCA of Greater Atlanta
ZERO TO THREE