



FAMILY FORWARD OREGON

Smart policies for today's families.

January 28, 2019

Testimony in Support of House Bill 2341

Relating to reasonable accommodation for pregnancy-related conditions
Submitted by Courtney Helstein on behalf of Family Forward Oregon

Thank you for the opportunity to provide testimony in support of HB 2341. Family Forward Oregon is committed to advancing policies that support women and families and help them succeed, including policies that help protect and accommodate pregnant employees at work. The legislature has a critical role to play in pursuing policies that can make a difference for all workers—including pregnant workers. Sometimes, a simple, temporary accommodation in the workplace can enable them to continue working and ensure the health and safety of baby and parent.

Many pregnant employees don't need any changes on the job, but some are advised by their health care providers to take steps like avoiding heavy lifting or to sit instead of standing during long shifts behind a cash register. If so, the employee may have a medical need for temporary adjustments to their job so they can continue to work safely and support their family. These types of temporary job adjustments are routinely provided to workers with disabilities — but pregnant employees are often denied, leaving them without income when their families are counting on them the most or risk medical complications. No pregnant person should have to choose between their health and their family's economic security — but that's exactly the choice some are forced to make. This is particularly true for pregnant people who work in physically demanding jobs, where pregnancy discrimination often can come with even higher stakes; the recent New York Times article, "Miscarrying at Work" is a heartbreaking account of some of the difficulties pregnant women face at work.

Currently, there is a patchwork of state and federal laws to protect pregnant workers, but there isn't a state law that expressly requires accommodations for known pregnancy related conditions. Oregon needs clear and straightforward protections for pregnant workers. The forty-year old federal Pregnancy Discrimination Act (PDA) prohibits discrimination against pregnant workers, but it only requires accommodations on the job if the employer is already doing so for other employees who are "similar in their ability to work." That means if an employer doesn't make accommodations for other workers, they don't have to make any for pregnant workers. The PDA also only applies to employers of 15 or more employees. With six out of 10 private-sector firms in Oregon having fewer than 5 employees, too many pregnant workers are left without protections¹.

¹ Oregon Employment Department:
<https://www.qualityinfo.org/-/most-oregon-employers-have-fewer-than-20-employees>

Our state and federal family leave laws allow for job-protected leave for pregnancy related conditions, but this is only applicable to *leave* and time away from the job. Many pregnancy-related conditions don't require a pregnant worker to stop working. Disability law also offers some protections to pregnant workers, but not expressly for pregnancy related conditions. And many employees don't think of their pregnancy like a disability, and therefore don't think to ask for accommodations under disability law, though they may be eligible for some.

HB 2341 sets a clear and consistent standard to protect all pregnant workers in Oregon and ensures they are treated fairly on the job. It simply requires that reasonable accommodations be made for known physical impairments resulting from pregnancy. This could include providing a stool to sit on behind a cash register, an ability to take more frequent restroom breaks, a temporary light duty assignment, etc. It will also provide basic protection from discrimination or retaliation for requesting pregnancy accommodations for all employees. Most importantly, it will provide these protections to *all* pregnant workers in Oregon. We believe it is critically important to extend these protections to *every* worker because having children is universal; protections are necessary for pregnant people at every size and type of employer.

It is also a very reasonable approach in that it provides the same undue hardship exemption for employers found in state disability law (ORS 659A.121(2)), which should already be familiar to employers. An undue hardship is one that requires "significant difficulty or expense" and employers would not be required to provide the accommodation if it would create an undue hardship on their business. This is about providing very reasonable workplace accommodations to allow pregnant workers to continue doing their jobs.

We believe HB 2341 a very common sense approach and provides long-overdue protections pregnant workers without significant expense to employers. Ensuring that pregnant workers are appropriately accommodated in the workplace will help prevent miscarriages, injuries and unnecessary pregnancy complications; it will enable many pregnant workers to continue working without jeopardizing their own health or that of their child. We urge passage of HB 2341.