



2301 21st Ave. South, Suite 355, Nashville, TN 37212 | t: 615.915.2417 | info@abetterbalance.org | abetterbalance.org

newborn health care costs. When maternal costs are added, employers and their employees pay \$58,917 more when a baby is born prematurely.³

Kentucky's Economy Needs Strong Measures to Support Women in the Workforce

- Kentucky ranks **48th in the country** for female labor force participation rates.⁴ The Commonwealth must increase the participation of women, including pregnant women, in the workforce to strengthen its economy.
- The KY PWRA will also save taxpayers money in the form of unemployment insurance, Medicaid costs, and other public benefits.

The Kentucky Pregnant Workers Rights Act Will Benefit Working Women and their Families

- It is estimated that **more than one quarter million** pregnant workers are denied requests for accommodations each year, and many more do not even request changes at work, likely because of fear of retaliation.⁵
- Women who need income but lack accommodations are often forced to continue working under unhealthy conditions, having no choice but to risk their own health as well as the health of their babies.⁶ One in 9 babies in Kentucky are born pre-term.⁷ Physically demanding work, where accommodations are more often necessary but too often unavailable, has been associated with an **increased risk for preterm birth and low birth weight**.⁸
- Here in Kentucky, and nationwide, pro-life & pro-choice groups both support legal protections ensuring reasonable accommodations for pregnant workers.⁹

For more information on this legislation, please contact Elizabeth Gedmark, the Director of the Southern Office/Senior Staff Attorney, at 615-915-2417 or egedmark@abetterbalance.org.

¹ *State Pregnant Worker Fairness Laws*, A Better Balance, <https://bit.ly/2yEKL6P>.

² *Pregnancy Raises Many Questions in the Workplace*, Upstate Business Journal (Aug. 16, 2018), <https://bit.ly/2pQC6KA>.

³ *Premature Birth: The Financial Impact on Business*, March of Dimes, <https://bit.ly/2PCo2Qs>.

⁴ Institute for Women's Policy Research, Kentucky State Profile, (2009), <http://www.iwpr.org/initiatives/womens-economic-status-in-the-states/sws-2009/kentucky-2009-1>.

⁵ *Listening to Mothers: The Experiences of Expecting and New Mothers in the Workplace*, Childbirth Connection (Jan. 2014)(citing Martin J.A., Hamilton B.E., Ventura S.J., et al. (2013, June 28). Births: Final Data for 2011. National Vital Statistics Reports, 62(1). U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics Publication), <https://bit.ly/LfRdXd>.

⁶ Renee Bischoff & Wendy Chavkin, *The Relationship between Work-Family Benefits and Maternal, Infant and Reproductive Health: Public Health Implications and Policy Recommendations*, (June 2008), pg. 13-17, http://otrans.3cdn.net/70bf6326c56320156a_6j5m6fupz.pdf; see also Mayo Clinic Staff, *Working During Pregnancy: Do's and Don'ts*, <http://www.mayoclinic.com/health/pregnancy/WL00035>.

⁷ *Peristats: Kentucky*, March of Dimes, <https://bit.ly/2pR36tu>.

⁸ See, e.g. Monique van Beukering et al., *Physically Demanding Work and Preterm Delivery: A Systematic Review and Meta-Analysis*, Int'l Archives of Occupational & Env'tl. Health (2014).

⁹ Brief amici curiae of 23 Pro-Life Organizations and the Judicial Education Project, *Young v. UPS*, (September 11, 2014), available at: http://sblog.s3.amazonaws.com/wp-content/uploads/2014/09/12-1226_tsac_23_Pro_Life_Organizations_and_Judicial_Education_Project.pdf; Brief amici curiae of Health Care Providers, et al., *Young v. UPS*, (September 11, 2014), available at: http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/BriefsV4/12-1226_pet_amcu_hcp-et-al.authcheckdam.pdf.

FACT SHEET:

Fairness for Pregnant Workers in Kentucky



No woman in Kentucky should have to choose between the health of her pregnancy and her job. Yet, this is happening all too often in the Commonwealth. The Kentucky Pregnant Workers' Rights Act (KY PWRA) ([BR 51](#)) would ensure that pregnant workers are given fair treatment on the job, provide clearer expectations for employers, and boost Kentucky's economy.

Pregnant women are pushed out of their jobs because the law does not explicitly guarantee reasonable accommodations for pregnancy, breastfeeding, and childbirth. This means pregnant workers who simply need a stool to sit on, access to water to stay hydrated, or temporary relief from heavy lifting are pushed out of their jobs or even terminated. The KY PWRA would explicitly ensure employers will reasonably accommodate employees with medical conditions related to pregnancy and breastfeeding when necessary **unless it would cause an undue hardship** on the employer.

The Pregnant Workers Rights Act Will Support Businesses By Clarifying Employers' Obligations to Pregnant Workers

- The KY PWRA **will provide much needed clarity, leading to upfront and informal resolutions** among employers and employees in ways federal laws do not. The law will help *prevent* problems before they start.
 - While pregnant and breastfeeding women have some protections from discrimination under the federal Pregnancy Discrimination Act, the law has led to confusion among both employers and employees with regard to workplace accommodations because of gaps in coverage—employers only need to accommodate pregnant workers if they already provide accommodations to other workers. And the Americans with Disabilities Act does not require accommodations for pregnancies that do not qualify as disabilities under the Act.
 - **Twenty-three states**, including West Virginia, South Carolina (just passed in 2018), Illinois, Nebraska, and Utah already require certain employers to provide accommodations to pregnant employees.¹
- The KY PWRA will help employers:
 - Increase employee retention and morale, and reduce employers' turnover and training costs, which can be quite high.
 - Avoid costly litigation by providing clear guidelines for employers so they can anticipate their responsibilities.
 - Several states with pregnant worker fairness laws have reported a reduction in litigation since the laws went into effect. **Clarity is particularly crucial for small businesses.** As one business publication in South Carolina stated “specific guidance regarding the requirements for accommodating workers with medical needs arising from pregnancy [] should be *particularly helpful* for small businesses.”²
 - Ensuring pregnant workers stay safe on the job will reduce employers' healthcare costs. **Each premature/low birth weight baby costs employers an additional \$49,760 in**

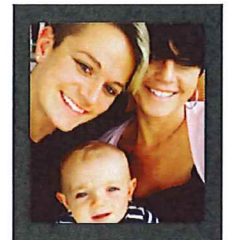
No woman in Kentucky should have to choose between the health of her pregnancy and her job. Yet, this is happening all too often in the Commonwealth. The Kentucky Pregnant Workers' Rights Act (KY PWRA)(SB 38) would ensure that pregnant workers are given fair treatment on the job and would promote equal opportunity in the workplace by giving pregnant women the reasonable accommodations they need, when they need them.



Officer Trischler & her daughter.

Officer Lyndi Trischler worked as a patrol officer in Florence, Kentucky, in 2014 when she became pregnant for the second time. Because of the heavy equipment and physical demands of patrolling she requested light duty after consulting with her healthcare provider. The City told her that, even though it had given her light duty for her first pregnancy, its new policy was to only give accommodations to employees injured on the job. She was told she had to use all of her saved paid leave and then go on unpaid leave. Even worse, the City said that her health benefits would be cut off during a very complicated pregnancy—her son had a rare genetic disorder and would not survive long after birth. Officer Trischler worked as long as she could, but at five and a half months pregnant she was forced out of work when she needed accommodations for her health.

Officer Riley also worked for the Florence Police Department. Half way through her pregnancy, Officer Riley could no longer go on patrol due to the pain and discomfort of the patrol equipment, and she too was forced to use up her leave before her child's birth.



Officer Riley (left) & her family.

Both Officers Trischler and Riley wanted to work throughout their pregnancy—they were committed to their jobs, and they knew that they could contribute to the department even when they could no longer go on patrol. During the time when they were both pushed off the job, the police force of over sixty had no female officers on patrol.

A Better Balance represented the officers in their legal efforts, and the Department of Justice joined the officers' case. In October 2016, despite continuing to state its position that it was not in violation of the law, the City of Florence agreed to change its policy to include accommodations for pregnant workers and to compensate the officers for the harm caused by its refusal to accommodate them. While this was a hard-fought victory for Officers Trischler and Riley, the economic and emotional toll that being pushed out of work placed on both of them and their families was steep during a time in their lives when they were most in need of support.

These two brave officers were forced to litigate for nearly two and a half years to get justice in their case, when all they wanted from the beginning was an accommodation so that they could stay on the job. Officer Trischler states, "This has been a long and difficult process for me . . . No officer—in Florence or anywhere in the country—should have to endure the stress and pain I endured simply for getting pregnant." The Kentucky Pregnant Workers' Rights Act will make sure that no pregnant woman in Kentucky is forced out of work while pregnant when a reasonable accommodation would keep her both healthy and on the job, by making a right to accommodation explicit in the law.