

## **An Introduction to the Pregnant Workers Fairness Act (PWFA)**

March 14, 2023

### **Resources**

#### **Contact**

##### **ACLU Women's Rights Project**

<https://www.aclu.org/other/about-aclu-womens-rights-project>

Gillian Thomas, [gthomas@aclu.org](mailto:gthomas@aclu.org)

Vania Leveille, [vleveille@aclu.org](mailto:vleveille@aclu.org)

##### **WorkLife Law**

[www.worklifelaw.org](http://www.worklifelaw.org)

Liz Morris, [morrisliz@uchastings.edu](mailto:morrisliz@uchastings.edu)

Cynthia Thomas Calvert, [cynthiacalvert@worklifelaw.org](mailto:cynthiacalvert@worklifelaw.org)

##### **WorkLife Law Free Legal Hotline for Workers**

[hotline@worklifelaw.org](mailto:hotline@worklifelaw.org) or leave message at 415.703.8276

Workers with questions about their legal rights or who need support requesting an accommodation from their employer may contact the helpline for free assistance. Services available in English and Spanish, with other languages available upon request.

#### **Text of Laws**

(Note: google searches may not return the version of the bill that passed)

PWFA, Senate amendment 6558 to Omnibus Spending bill: <https://www.congress.gov/congressional-record/volume-168/issue-198/senate-section/article/S9631-1>

PUMP Act, Senate amendment 6595 to Omnibus Spending bill:

<https://www.congress.gov/congressional-record/volume-168/issue-199/senate-section/article/S10005-1>

## **Summary of the Pregnant Workers Fairness Act (PWFA)**

The federal PWFA makes it unlawful for an employer to refuse to make reasonable accommodations to a qualified employee's known limitations related to pregnancy, childbirth, or related medical conditions, unless it would impose an undue hardship on the operation of the employer's business.

A known limitation is a mental or physical condition related to pregnancy, childbirth, or related medical conditions that the employee has communicated to the employer. It does not have to be a disability.

A qualified employee is an employee or applicant who can perform the essential functions of the job with or without accommodation. An employee or applicant is qualified even if unable to perform essential functions if the inability is temporary and can be reasonably accommodated.

"Reasonable accommodation" and "undue hardship" have the same meanings as under the ADA. Typically, an employer and employee will engage in an interactive process to determine a reasonable accommodation, unless the appropriate accommodation can be provided without further conversation. Employers may not place employees on leave if the employees do not want to take leave and another reasonable accommodation can be provided.

The PWFA applies to private employers of 15 or more employees and almost all other employers that are subject to anti-discrimination laws. Damages and procedures are the same as for the nondiscrimination law that applies to the particular category of employee; attorney's fees and costs are available; and employees must exhaust their administrative remedies as required by the anti-discrimination laws that apply to them (e.g., for employees of private employers, they must file a charge with the EEOC). No damages will be awarded, however, if the employer demonstrates good faith efforts, in consultation with the employee, to identify and make a reasonable accommodation that would give the employee an equally effective opportunity.

The PWFA does not limit any state or federal law that provides greater rights to a pregnant employee.

The law goes into effect June 27, 2023.

## **Summary of the PUMP Act**

The PUMP Act requires employers of all sizes that are subject to the FLSA to provide reasonable breaks on an as-needed basis for pumping breast milk. The breaks must be allowed up to one year after the birth of the employee's child. Employers must provide a private place other than a bathroom to be used for pumping, and the space must be shielded from view and free from intrusion by the public and co-workers.

Employers of fewer than 50 employees may be excused from complying in circumstances where doing so would impose an undue hardship.

The PUMP Act provides employees a private right of action if their employer fails to comply with the law. If a worker has been denied an adequate space to pump, before they can file a lawsuit, they must notify the employer of the inadequacy and give the employer 10 days to correct the problem. Notice is not required if the employer makes clear its intent to not comply, fires the employee in retaliation, and for

violations of the break time requirements. Employees may file a complaint for violations with the Department of Labor, but this is not required to file a lawsuit in court. Remedies include lost wages (including liquidated damages) , other economic harms, emotional distress, punitive damages, and attorney's fees and costs.

The PUMP Act does not limit any state or federal law that provides greater rights to employees.

The law went into effect last December. The portion of the law that provides a private remedy goes into effect on April 28, 2023. The law does not cover airline flight attendants and pilots, and some railway and motorcoach workers are not covered now but will be in three years.

## Online Information

**Pregnant at Work** website (including doctor's note writing tool is under the "Healthcare Professionals" tab)

<https://pregnantatwork.org/>

**Pregnancy Accommodations Explained**, <https://www.pregnantatwork.org/wp-content/uploads/Workable-Accommodation-Ideas.pdf>

**PUMP Act Explainer**, <https://worklifelaw.org/wp-content/uploads/2023/01/PUMP-Act-Explainer.pdf>

EEOC, What You Should Know About the Pregnant Workers Fairness Act,

<https://www.eeoc.gov/wysk/what-you-should-know-about-pregnant-workers-fairness-act>

**AskJAN** (helpful for ADA accommodation ideas), <https://askjan.org/>

ADA National Network accommodation fact sheet, <https://adata.org/factsheet/reasonable-accommodations-workplace>

Brian East, co-author, chapter on "Workers with Disabilities" in the Employee & Union Member Guide to Labor Law (Thompson/West) (available on Westlaw; excellent resource for ADA case law)

ADA regulations, 29 C.F.R. Part 1630, and Interpretive Guidance (Appendix to Part 1630),

<https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XIV/part-1630?toc=1>

### EEOC Guidance on ADA and PDA

Reasonable Accommodation and Undue Hardship (2002):

<https://www.eeoc.gov/laws/guidance/enforcement-guidance-reasonable-accommodation-and-undue-hardship-under-ada>

Employer-Provided Leave and the Americans with Disabilities Act (2016):

<https://www.eeoc.gov/laws/guidance/employer-provided-leave-and-americans-disabilities-act>

Enforcement Guidance: Pregnancy Discrimination and Related Issues (2015):

<https://www.eeoc.gov/laws/guidance/enforcement-guidance-pregnancy-discrimination-and-related-issues>

Questions and Answers about the EEOC's Enforcement Guidance on Pregnancy Discrimination and

Related Issues (2015): <https://www.eeoc.gov/laws/guidance/questions-and-answers-about-eeocs-enforcement-guidance-pregnancy-discrimination-and>

### **DOL Guidance on FLSA Pumping Requirements**

[WHD Fact Sheet #73, FLSA Protections for Employees to Pump at Work](#)

[FLSA Protections to Pump at Work Frequently Asked Questions \(FAQs\)](#)

Employment Protections for Workers Who Are Pregnant or Nursing (state information),

<https://www.dol.gov/agencies/wb/pregnant-nursing-employment-protections>

## Pregnancy Accommodation Fact Patterns and Possible Claims

Certain fact patterns involving pregnancy accommodations tend to recur. Here are some examples and the legal claims they might present. *This information is presented for the practitioner's consideration; it may not be complete, it may vary by state, and it is not intended to be legal advice.*

1. A pregnant employee has been coming in late every morning because, she told her employer, she has severe morning sickness. Her tardiness violates the company's attendance policy, and she is terminated.

*Possible claims:*

Pregnant Workers Fairness Act (PWFA):

- failure to accommodate a known limitation related to pregnancy: she told her employer about her morning sickness that was making it hard to come to work on time

Pregnancy Discrimination Act (PDA):

- disparate treatment: if nonpregnant employees have not been terminated for similar tardiness *or* if employees who are similar in their ability or inability to work have been permitted to be late without being terminated
- failure to accommodate pursuant to *Young v. UPS*: if she needs a schedule accommodation and the employer accommodates others who need a variation in schedule
- disparate impact: if the company's attendance policy has a disproportionate effect on women or pregnant people

Family and Medical Leave Act (FMLA):

- interference: based on failure to notify the employee that she can take intermittent FMLA leave for severe morning sickness
- retaliation: if there is evidence that she was terminated because of her upcoming plans to take 12 weeks of family leave

Americans with Disabilities Act (ADA):

- actual disability/failure to accommodate: if morning sickness was severe enough to meet the definition of disability, unless the accommodation would create an undue hardship for the employer

- regarded as having a disability (if she was treated differently from others who did not have a disability; the EEOC has advised that if an accommodation is not sought, disparate treatment claims can be brought under the “regarded as” prong and no proof of disability is necessary)

State and local pregnancy accommodation laws: Over half of the states and many cities require employers to provide reasonable accommodations to pregnant people, which could include schedule changes or leave, unless the accommodation would create an undue hardship for the employer. Some may also permit a claim for failure to engage in an interactive process.

State antidiscrimination laws: Same as for PDA and ADA.

State family and medical leave laws: Same as for FMLA.

Wrongful discharge: Some states may permit a wrongful discharge claim or a claim of termination in violation of public policy.

2. A pregnant employee gave her employer a doctor’s note advising that she lift no more than 25 pounds. Her job requires her to be able to lift up to 50 pounds, so she is terminated and told she can re-apply after she delivers if she no longer has a lifting restriction.

*Possible claims:*

Pregnant Workers Fairness Act (PWFA):

- failure to accommodate a known limitation related to pregnancy: employer was aware of limitation from the doctor’s note, employee was qualified even though she could not perform an essential function of her job because the inability is temporary while she is pregnant and can be accommodated.

Pregnancy Discrimination Act (PDA):

- disparate treatment: if nonpregnant employees who have lifting restrictions have not been terminated or have been given help with lifting (note that for a case based on circumstantial evidence, inconsistent application of the lifting restriction may be evidence of pretext)
- failure to accommodate pursuant to *Young v. UPS*: if the employer accommodates other non-pregnant employees who cannot do all the aspects of their jobs. Note the broad definition of the comparator class. Some courts want plaintiffs to use others who have lifting restrictions as comparators, but *Young* does not require such similarity.

Americans with Disabilities Act (ADA):

- actual disability/failure to accommodate: if lifting restriction arises from a physical impairment that meets the definition of disability (note that a high-risk pregnancy and

similar conditions affecting lifting can be disabilities), unless the accommodation would create an undue hardship for the employer

- regarded as having a disability: if she was treated differently from other employees who do not have a disability, such as if older workers are given help with lifting but not her.

State and local pregnancy accommodation laws: Over half of the states and many cities require employers to provide reasonable accommodations to pregnant people, which could include assistance with lifting, unless the accommodations would create an undue hardship for the employer.

State antidiscrimination laws: Same as for PDA and ADA.

Wrongful discharge: Some states may permit a wrongful discharge claim or a claim of termination in violation of public policy.

3. An employee is terminated while she is on leave recovering from childbirth. The cause for termination is incompetence; the person covering her job discovered deficiencies in her performance.

*Possible claims:*

Pregnant Workers Fairness Act (PWFA):

- failure to accommodate a known limitation related to childbirth (need to recover from childbirth is a limitation known to the employer, termination necessarily rescinds the accommodation of leave);
- retaliation (if there is evidence that she was terminated because she took leave, using similar evidence as for the PDA claim below).

Pregnancy Discrimination Act (PDA):

- disparate treatment (if there is evidence that the employer has not or would not terminate others who were not out on maternity leave for similar deficiencies, evidence that the deficiencies are not the real reason for the termination because they are too minor, or evidence that the employee's performance was not deficient).

Title VII sex discrimination:

- stereotyping (if there is evidence that the employer terminated the employee because she was a mother (e.g., comments that she would not be able to handle her workload with a young baby at home)).

Family and Medical Leave Act (FMLA):

- interference (based on failure to reinstate); discrimination/retaliation (if there is evidence that she was terminated because she took protected leave, using similar evidence as for the PDA claim).

State antidiscrimination law: same as for PDA and Title VII; note that some states have maternity leave laws that require employers to return mothers to their positions except in limited circumstances.

State leave law: same as for FMLA.

Wrongful discharge: Some states may permit a wrongful discharge claim or a claim of termination in violation of public policy.

4. An employee needs to express milk and requests that a co-worker cover her position. She is made to wait for several hours to take her break to pump. This happens several times.

*Possible claims:*

Pregnant Workers Fairness Act (PWFA):

- failure to accommodate (lactation is a condition related to pregnancy; employer must accommodate if employee requests breaks as a reasonable accommodation; delay can constitute a denial)

PUMP Act:

- violation of break time provision (employer must allow reasonable breaks on an as-needed basis for pumping breast milk for up to one year after the birth of the employee's child; repeated delays in permitting breaks is a violation)

Pregnancy Discrimination Act (PDA):

- failure to accommodate (pursuant to *Young v. UPS*, if the employer accommodates others who can do their jobs but need minor accommodations (note: the comparators do not need to request the same or similar accommodation, they just need to be similar in their ability to work));
- harassment (delayed breaks can cause pain, embarrassment, and infections, and it can rise to the level of harassment if sufficiently severe or pervasive);
- discrimination (lactation is a medical condition related to pregnancy, and treating lactating employees adversely because they are lactating violates the PDA)

State and local pregnancy accommodation laws: failure to accommodate (many state PWFAs expressly require lactation accommodations and others apply because lactation is related to pregnancy)

State and local breastfeeding laws: violation of the law (many states have laws requiring employers to accommodate lactating employees)

State antidiscrimination law: same as for PDA



## **Pregnancy, Childbirth, and Related Medical Conditions: Common Workplace Limitations and Reasonable Accommodations Explained**

Working during pregnancy is generally safe.<sup>1</sup> Many pregnant and postpartum employees need work accommodations, whether because of risks posed by their particular job duties, because of medically-complicated pregnancies, or simply because of the normal physical changes that occur during pregnancy. Employees may also have work limitations resulting from related medical conditions like lactation, abortion, miscarriage, pregnancy loss, fertility treatment, and menstruation. This guide provides an overview of these workplace needs for non-medical professionals. It may be particularly useful to lawyers and HR professionals.

### **Contents**

<b>Accommodations Employees May Need During a Typical Pregnancy .....</b>	<b>2</b>
<b>Accommodations Employees May Need to Avoid Hazardous Work.....</b>	<b>2</b>
<b>Exposure to Toxins .....</b>	<b>2</b>
<b>Physically Demanding Work.....</b>	<b>3</b>
<b>Excessive Heat .....</b>	<b>3</b>
<b>Long Working Hours and Overnight Shifts .....</b>	<b>4</b>
<b>Risk of Falls.....</b>	<b>4</b>
<b>Accommodations Employees May Need for Medical Complications Caused or Exacerbated by Pregnancy .....</b>	<b>5</b>
<b>Table of Medical Complications and Responsive Accommodations.....</b>	<b>5</b>
<b>Accommodations Employees May Need for Other Related Medical Conditions .....</b>	<b>10</b>
<b>Lactation.....</b>	<b>10</b>
<b>Fertility Treatment, Miscarriage, and Pregnancy Loss .....</b>	<b>11</b>
<b>Abortion.....</b>	<b>11</b>
<b>Menstruation .....</b>	<b>11</b>

**Questions?** For information about the laws that give rights to employees who need accommodations for pregnancy and related conditions, contact the Center for WorkLife Law at 415-565-4640 or [info@worklifelaw.org](mailto:info@worklifelaw.org).

---

<sup>1</sup> Am. Coll. of Obstetricians and Gynecologists, No. 733, *Employment Considerations During Pregnancy and the Postpartum Period*, in 131 *Obstetrics & Gynecology* 115-23 (2018), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2018/04/employment-considerations-during-pregnancy-and-the-postpartum-period>.

### **Accommodations Employees May Need During a Typical Pregnancy**

During pregnancy, people experience normal physical changes that impact numerous bodily systems. These differ from person to person, and may include pain in the back, abdomen, or thighs; swelling in limbs and joints; increased breast size and breast tenderness; nosebleeds; heartburn; dizziness or lightheadedness; fatigue; hemorrhoids; leg cramps or muscle spasms; nausea and vomiting; numb or tingling hands; increased need for urination and bladder control issues; and increased hunger and thirst.

Depending on the nature of their work, employees may require reasonable accommodations related to these normal physical changes. Common pregnancy accommodations include:

- Extra breaks for rest, snacks, water, and restroom use
- Uniform changes
- Changes to job duties, work location, or other modifications needed to reduce or avoid bending, lifting, climbing, walking, and/or standing (e.g. permission to sit on a chair, or moving work station closer to the bathroom)
- Ability to more frequently drink water and eat during the workday
- Schedule changes or excusal from absence and tardiness control policies (“attendance points”)
- Time off for regular prenatal care appointments
- Leave prior to childbirth, and for 6-8 weeks after birth for physical recovery

### **Accommodations Employees May Need to Avoid Hazardous Work**

Certain occupations expose employees to conditions that could be harmful to the health of a pregnant person or the health of their pregnancy. An individual pregnant person should be free to decide their personal risk tolerance in consultation with their healthcare provider. Accommodations may be needed to avoid hazardous duties.

### **Exposure to Toxins**

Employment sectors at particular risk of potentially hazardous exposures during pregnancy include agriculture (pesticides), manufacturing (organic solvents and heavy metals), dry cleaning (solvents), custodial and cleaning services (organic solvents), beauty salons (solvents and phthalates), and health care (biologics and radiation).<sup>2</sup> Toxic exposures have been associated with infertility and miscarriage, obstetric outcomes such as preterm birth and low birth weight, neurodevelopmental outcomes

---

<sup>2</sup> Am. Coll. of Obstetricians and Gynecologists, No. 832, *Reducing Prenatal Exposure to Toxic Environmental Agents*, in 138 *Obstetrics & Gynecology* 40-54 (2021), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2021/07/reducing-prenatal-exposure-to-toxic-environmental-agents>.

such as autism and attention deficit hyperactivity disorder, and adult and childhood cancer.<sup>3</sup>

Responsive accommodations may include change in job duties, switching to less hazardous alternative chemicals, use of personal protective equipment (note PPE may need to be adjusted to fit properly during pregnancy), temporary transfer to an alternate position, or leave when economically feasible (consider disability insurance benefits when leave is the only safe option).

For more information about specific workplace exposures that can be hazardous during pregnancy and breastfeeding, visit <https://www.cdc.gov/niosh/topics/repro/specifcexposures.html>.

### **Physically Demanding Work**

Everyday physical activities are appropriate for most pregnant people, however physically demanding work such as heavy lifting, excessive repetition, awkward postures, and prolonged periods of sitting or standing could increase chances of miscarriage, preterm birth, or injury during pregnancy, according to the National Institute for Occupational Safety and Health (NIOSH),<sup>4</sup> which publishes specific lifting recommendations for pregnant workers.<sup>5</sup> Positions that tend to be physically demanding include healthcare workers, manufacturing workers, construction crews, service workers, flight attendants, firefighters and first responders, childcare providers, and farm and greenhouse workers.

Responsive accommodations may include ability to sit or stand as needed (e.g. providing a chair, a sit-stand workstation, or additional rest breaks), mechanical assistance with lifting or hauling, modification or reassignment of job duties, assistance from co-workers, and temporary transfer to light duty or an alternate position.

### **Excessive Heat**

Exposure to excessive heat at work could increase the risk of reproductive harms, including birth defects, according to the National Institutes for Occupational Safety and Health (NIOSH).<sup>6</sup> Pregnant people are more likely to get heat exhaustion, heat stroke, and dehydration sooner than nonpregnant people.<sup>7</sup> Workers most commonly exposed to heat include those who work outdoors and in buildings without climate control during

---

<sup>3</sup> Id.

<sup>4</sup> Nat'l Inst. for Occupational Safety and Health, *Physical Job Demands-Reproductive Health*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/physicaldemands.html>.

<sup>5</sup> Leslie A. MacDonald et al., *Clinical Guidelines for Occupational Lifting in Pregnancy: Evidence Summary and Provisional Recommendations*, 209 Am. J. Obstetrics Gynecology 80 (2013), <https://www.sciencedirect.com/science/article/abs/pii/S0002937813002421>.

<sup>6</sup> Nat'l Inst. for Occupational Safety and Health, *Heat-Reproductive Health*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/heat.html>.

<sup>7</sup> Id.

hot weather, cooks and dishwashers in commercial kitchens (e.g., restaurants), certain manufacturing workers, and firefighters.<sup>8</sup>

Responsive accommodations may include additional breaks to cool down or drink water, portable cooling devices (AC or fan), provision of shade, modification of job duties or productivity metrics, permission to drink water more frequently, and temporary transfer to an alternate position.

### **Long Working Hours and Overnight Shifts**

Working long hours and working at night has been related to miscarriages and preterm birth, according to the National Institutes for Occupational Safety and Health (NIOSH).<sup>9</sup> Americans workers in a wide range of industries have long work hours. Healthcare workers, flight attendants and pilots, law enforcement workers, and workers in the service industry commonly work rotating or night shifts.

Responsive accommodations may include schedule modifications, modification of job duties, temporary excusal from overnight shifts, relief from mandatory overtime, temporary transfer to an alternate position, and reduced work hours or part-time status.

### **Risk of Falls**

Falls are the leading cause of occupational injury among the general population. Pregnant people are at an increased risk of falls because of joint laxity and a shifting center of gravity, particularly later in pregnancy.<sup>10</sup> Falls can be caused by slippery floors, hurried pace, or carrying a child or object. They are therefore more likely to occur in occupations like food services, farmwork, and childcare.<sup>11</sup>

Responsive accommodations may include mechanical assistance with carrying objects (e.g., a wagon or cart), slower pace of work, modification of duties, assistance of co-workers, and temporary transfer to an alternate position.

---

<sup>8</sup> Id.

<sup>9</sup> Nat'l Inst. for Occupational Safety and Health, *Work Schedule-Reproductive Health*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/workschedule.html>.

<sup>10</sup> Am. Coll. of Obstetricians and Gynecologists, No. 733, *Employment Considerations During Pregnancy and the Postpartum Period*, in 131 *Obstetrics & Gynecology* 115-23 (2018), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2018/04/employment-considerations-during-pregnancy-and-the-postpartum-period>.

<sup>11</sup> H.M. Salihu et al., *Pregnancy in the workplace*, 62 *Occupational Med.* 88 (2012), <https://academic.oup.com/occmed/article/62/2/88/1480061?login=false>.

**Accommodations Employees May Need for Medical Complications Caused or Exacerbated by Pregnancy**

Pregnant employees with medical conditions beyond pregnancy (e.g., gestational diabetes or perinatal depression) may need reasonable accommodations to meet the limitations of their medical condition. The following chart was taken from the Appendix of *A Sip of Cool Water: Pregnancy Accommodations after the ADA Amendments Act*.<sup>12</sup> It was prepared by with assistance from Drs. Marya Zlatnik and Megan Huchko of the Center for WorkLife Law’s Pregnancy Accommodation Working Group.

**Table of Medical Complications and Responsive Accommodations**

<b>Underlying Conditions</b>	<b>Description</b>	<b>Reasonable accommodations</b>
Sub-chorionic hematoma, placental abruption, placenta previa	Uterine or vaginal bleeding in pregnancy is a symptom usually caused by problems with placental attachment that can result in several pregnancy conditions that put women at risk for preterm delivery or miscarriage.	Time off for medical appointments; bedrest; move workstation close to restrooms.
Lumbar lordosis	Pregnant women experience back pain through a variety of mechanisms, including the sway-backed posture (lumbar lordosis) caused by a growing belly and the hormones of pregnancy loosening up the joints, muscle spasms and “Braxton-Hicks” contractions. Pregnancy may also exacerbate pre-existing back problems. Back pain, if severe, can interfere with major life activities (standing, reaching, lifting, or bending).	Use of a heating pad, sitting instead of standing, lifting assistance or limitations, using assistive equipment to lift, and modification of the duties of the job, such as temporary light duty
Deep vein thrombosis, pulmonary embolism, stroke	Pregnancy increases women’s risk for blood clots, which can occur in the veins of the legs (deep vein thrombosis), lungs (pulmonary embolism) or brain (stroke).	Modification of work station, breaks for exercise.

<sup>12</sup> Joan C. Williams, *A Sip of Cool Water: Pregnancy Accommodation after the ADA Amendments Act*, 32 Yale L. & Pol’y Rev. 97 (2015), [https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2276&context=faculty\\_scholarship](https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2276&context=faculty_scholarship).

<b>Underlying Conditions</b>	<b>Description</b>	<b>Reasonable accommodations</b>
Carpal Tunnel Syndrome	Tingling, pain, numbness and joint stiffness in hands and wrists is common in late pregnancy due to changes in fluid composition and increased amount of pressure on median nerve in wrist. Carpal tunnel syndrome is an impairment that is much more prevalent in pregnant women than the population generally.	Occasional breaks from manual tasks or typing and specialized programs that allow for dictation instead of typing
Chronic migraines	A condition sometimes exacerbated by pregnancy that can be a disability when the headaches reach substantially limiting levels. Migraines can limit major life activities such as seeing, hearing, eating, sleeping, walking, learning, reading, concentrating, thinking, communicating, and working.	Changing lighting in the work area, limiting exposure to noise and fragrances, scheduling changes such as flexible schedules or telework (which may include a transfer to a position that provides this kind of flexibility)
Dependent edema	Swelling, especially of feet/ankles, is more common as pregnancy progresses, and becomes worse with standing. This is caused by an increase in the overall volume of fluid in the body, leading to a decrease in protein concentration or oncotic pressure within the circulatory system. This leads to fluid extravasation from blood vessels into the extravascular space.	Provide employee with stool or chair to sit on while working; more frequent rest breaks; modification of footwear requirements.
Dyspnea	Shortness of breath is common due to the partially compensated respiratory alkalosis of pregnancy. Pregnant woman breath more deeply to allow gas exchange for herself, the placenta, and the fetus. Breathing more deeply (increasing “minute ventilation”) increases the pH of her blood (makes it a little more basic). Her kidneys partially compensate by putting more bicarbonate into her urine. This physiology is what makes daily life difficult for pregnant women.	Provide employee with stool or chair to sit on while working; more frequent rest breaks.

<b>Underlying Conditions</b>	<b>Description</b>	<b>Reasonable accommodations</b>
Fatigue	A feeling of tiredness or exhaustion or a need to rest because of lack of energy or strength.	Light duty to avoid strenuous activity, flexible or reduced hours, exemption from mandatory overtime
Gastroesophageal reflux (GERD)	Mild to severe heartburn is common in pregnancy, caused by hormones loosening muscle that is supposed to hold stomach contents down.	Allowing for breaks for food as needed; providing space for medications to be stored.
Gestational diabetes	This is a condition in which the placenta interferes with the body's normal metabolism of glucose. Women with gestational diabetes need to monitor their blood glucose two to six times/day, and some may need to take insulin or oral medication to control blood glucose levels. The resulting high blood glucose levels can cause placental dysfunction, increased fetal growth and post-natal metabolic abnormalities. Complications of uncontrolled gestational diabetes include fetal macrosomia, shoulder dystocia and increased need for cesarean section.	Permission to take more frequent bathroom breaks, to eat small snacks during work hours, a cot for lying down, and modified schedules
Hemorrhoids	Pregnancy can cause swelling of rectal veins due to hormonal changes, constipation (more common in pregnancy) and increased pelvic girth/pressure. Hemorrhoids can be painful or even bleed.	Allow women to avoid being in a seated position all day, or to use a special cushion.
Hyperemesis gravidarum	Pregnant women can have nausea and/or vomiting that limits their ability to work in certain settings/certain times of day. Severe nausea and vomiting in pregnancy can result in weight loss, dehydration, and/or electrolyte imbalance. It occurs most commonly in the first trimester but can extend throughout the entire pregnancy and all day long.	Permission to take more frequent bathroom breaks, to eat small snacks during work hours, a cot for lying down, and modified schedules. <sup>13</sup>

<b>Underlying Conditions</b>	<b>Description</b>	<b>Reasonable accommodations</b>
Hypertension, preeclampsia	Chronic or pregnancy-induced high blood pressure may endanger both the health of the mother and the fetus. Pregnancy outcomes range from poor fetal growth, fetal distress and intrauterine demise. The mother may experience damage to her kidneys, liver, heart and brain (seizure or stroke). Major life activities impacted include performing manual tasks, walking, standing, lifting, bending, and working.	Provide a stool or chair for employee to sit on while working; limit lifting and bending requirements; work from home while on bedrest, and leave.
Intrauterine Growth Restriction	Condition in which the fetus is not growing appropriately inside the uterus. There are multiple causes for this, including congenital anomalies, infection in pregnancy, placental attachment disorders, multiple gestation and maternal medical conditions. A related condition is low amniotic fluid or oligohydramnios. Complications include fetal distress, need for early delivery and increased need for cesarean section.	Bedrest; time off for medical appointments.
Intrauterine fetal growth restriction, oligohydramnios, risk of preterm labor, preeclampsia, gestational diabetes.	Symptoms common to multiple gestation (twins, triplets, quadruplets or more) put women at risk for many pregnancy complications. Women may go into labor or have an indicated early delivery and have an increased risk for cesarean section. Providers may recommend fetal monitoring in the third trimester.	(See sections pertaining to related conditions, <i>infra</i> .)
Perinatal depression	Includes both major and minor depressive disorders that occur during pregnancy or after giving birth. Symptoms include inability to sleep, loss of focus, feelings of helplessness, and thoughts of suicide. Depression may substantially limit major life activities (thinking, sleeping, concentrating, caring for oneself, and interacting with others).	Time off to attend therapeutic sessions; temporary transfer to a less distracting environment, telecommuting, and leave.



<b>Underlying Conditions</b>	<b>Description</b>	<b>Reasonable accommodations</b>
Pre-term labor risk	Pregnant women may develop symptoms that put them at risk for pre-term labor and delivery, including contractions, shortened cervix, advanced cervical dilation early in pregnancy, abnormal vaginal bleeding or preterm premature rupture of membranes. In addition to medical management, recommendations for women at risk range from modified or complete bedrest to inpatient management.	(See sections pertaining to related conditions, <i>infra</i> .)
Symphyseal separation (i.e. pubic symphysis separation)	Loosening of the joint on the front of the pelvic bone (pubic symphysis) in preparation for childbirth is caused by pregnancy hormones. This condition can result in severe pelvic pain and limited mobility like with some back problems.	Limits on lifting requirements; providing a stool or chair to sit on; more frequent breaks.
Syncope or near-syncope	Feeling lightheaded, dizzy or fainting is common in pregnancy due to the increase in proportion of blood volume going to the uterus and fetus. Symptoms can be caused by heat, stress or unusual exertion. The patient may also experience palpitations or a racing heart beat.	Providing a stool or chair to sit on; more frequent breaks.
Urinary tract or bladder infection	Pregnant women have to urinate frequently. Although this is nearly universal in pregnancy, it can also be a symptom of a bladder infection—which is more common in pregnancy. Urinary frequency can result in poor quality sleep as well.	More frequent bathroom breaks; carrying a bottle of water.
Varicose veins	Hormonal changes, increased blood flow and increased resistance in the pelvis can cause swelling and back-filling of veins in the legs. This can be painful and worsen as pregnancy advances and is exacerbated by standing or sedentary positions.	More frequent breaks; ability to sit or stand as needed.

## **Accommodations Employees May Need for Other Related Medical Conditions**

### **Lactation**

Most nursing parents must use a breast pump<sup>14</sup> to remove milk from their body during the workday. Physicians instruct lactating parents to express milk on the same schedule as they feed their child—which is typically every two to three hours for young infants—to maintain their milk supply and avoid serious health consequences.<sup>15</sup> If a nursing parent suddenly changes their pumping schedule or misses pumping sessions, their body will likely respond by beginning to produce less milk (as the body constantly produces breast milk on a demand-and-supply basis). The diminution of milk supply may mean the nursing parent can no longer produce enough milk to meet their infant’s feeding needs.<sup>16</sup> Additionally, inability to pump milk on schedule can cause considerable discomfort or illness for the nursing parent, including painful breast engorgement, infections, and mastitis.<sup>17</sup> Lactating employees who are not producing milk for their own child may also need to pump in cases of surrogacy or infant loss.

### **Break Time**

Breastfeeding, chestfeeding, and pumping employees generally require sufficient break time and a private, non-bathroom space to express milk on an as-needed basis. According to the U.S. Department of Health and Human Services, a pumping break should allow fifteen to twenty minutes for expressing milk, plus time for (i) set up, (ii) clean up, and (iii) the walk to and from the work area and the pumping space, if any.<sup>18</sup> Longer may be needed due to certain physical or workplace conditions.

### **Pumping Space**

The space must not be a bathroom; pumping requires a sanitary environment to reduce the risk of contaminating the breast milk, which is food for a baby.<sup>19</sup> Many parents also

---

<sup>14</sup> A breast pump is equipment that creates a rhythmic suction mimicking the pace and physical effect of a nursing baby to remove breast milk from the body. Breast pumps typically require access to an electrical outlet. U.S. Food and Drug Admin., *What to Know When Buying or Using a Breast Pump*, FDA.GOV, <https://www.fda.gov/consumers/consumer-updates/what-know-when-buying-or-using-breast-pump>.

<sup>15</sup> U.S. Dep’t of Labor, Wage & Hour Div., *Reasonable Break Time for Nursing Mothers*, 75 Fed. Reg. 80073, 80075 (Dec. 21, 2010).

<sup>16</sup> Susan Reslewic Keatley, *How to Deal with Low Breastmilk Supply*, N.Y. TIMES (Apr. 17, 2020), <https://www.nytimes.com/article/increase-breastmilk-supply.html>.

<sup>17</sup> *Breast Engorgement*, CHILDREN’S HOSP. OF PHILA., <https://www.chop.edu/pages/breast-engorgement> (last visited Nov. 21, 2022); see also *Engorgement*, WIC BREASTFEEDING SUPPORT—U.S. DEPT. OF AGRIC., <https://wicbreastfeeding.fns.usda.gov/engorgement> (last visited Nov. 21, 2022).

<sup>18</sup> *Time for breaks*, OFF. ON WOMEN’S HEALTH—U.S. DEPT. OF HEALTH & HUM. SERV., <https://www.womenshealth.gov/supporting-nursing-moms-work/break-time-and-private-space/time-breaks> (last visited Nov. 22, 2022).

<sup>19</sup> *What employers need to know*, OFF. ON WOMEN’S HEALTH—U.S. DEPT. OF HEALTH AND HUM. SERV., <https://www.womenshealth.gov/supporting-nursing-moms-work/what-law-says-about-breastfeeding-and->

require a private space because using a pump exposes the breast/chest. The pumping space should have a seat and a flat surface on which to place the pump. It should be clean and a comfortable temperature. Employees may also need access to electricity (e.g., an outlet or extension cord), access to a refrigerator or permission to carry a cooler to store the milk, and running water to clean their hands and pump parts.

### Other Lactation Accommodations

Lactating employees sometimes need accommodations that extend beyond reasonable break time and a private space, either because of personal health needs or the nature of their jobs.<sup>20</sup> For example, a lactating employee may need:

- time off or remote work for a lactation-related complication such as mastitis
- modified work duties, PPE, or a temporary transfer to avoid exposure to toxic chemicals or other hazards that can contaminate human milk<sup>21</sup>
- excusal from long-distance travel, or flight schedules and layovers that allow for pumping
- telecommuting or permission for a caretaker to bring the employee's infant to the workplace when the employee is physically unable to pump breast milk
- assignment to work locations where pumping is feasible
- modification of a work uniform that compresses the chest and therefore hinders milk production

### **Fertility Treatment, Miscarriage, and Pregnancy Loss**

Employees may need time off for medical appointments and procedures, counseling, physical recovery, and/or bereavement. Employees under fertility treatment may need breaks at specific times of day to administer medication.

### **Abortion**

Employees may need time off for medical procedures, including travel to abortion providers, physical recovery, and/or bereavement.

### **Menstruation**

Employees may need accommodations for issues related to menstruation, including menstrual disorders like abnormal bleeding or premenstrual dysphoric disorder (PMDD).

---

work/what-employers-need-know (last visited Dec. 14, 2022). *See also* U.S. Dep't of Labor, Wage & Hour Div., Reasonable Break Time for Nursing Mothers, 75 Fed. Reg. 80073, 80076 (Dec. 21, 2010).

<sup>20</sup> Ctr. for WorkLife Law, *Exposed: Discrimination Against Breastfeeding Workers* (2016) at 31, <https://www.pregnantatwork.org/wp-content/uploads/WLL-Breastfeeding-Discrimination-Report.pdf>.

<sup>21</sup> Nat'l Inst. for Occupational Safety and Health, *Learn about Specific Exposures during Pregnancy & Breastfeeding*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/specifisexposures.html>.

Employees may need modified or work hours, excusal from overnight shifts,<sup>22</sup> additional restroom breaks, or time off for medical appointments.

**Questions?** For information about the laws that give rights to employees who need accommodations for pregnancy and related conditions, contact the Center for WorkLife Law at 415-565-4640 or [info@worklifelaw.org](mailto:info@worklifelaw.org).

---

<sup>22</sup> Working at night and working long hours has been related to menstrual disorders. See Nat'l Inst. for Occupational Safety and Health, *Work Schedule-Reproductive Health*, CDC.GOV, <https://www.cdc.gov/niosh/topics/repro/workschedule.html>.

Services such sums as are necessary for each of the fiscal years 2023 through 2033 to carry out this section and the amendments made by this section.

**SEC. 108. SUPPORT FOR ALLIES SEEKING RESETTLEMENT IN THE UNITED STATES.**

Notwithstanding any other provision of law, during Operation Allies Welcome, Enduring Welcome, and any successor operation, the Secretary of Homeland Security and the Secretary of State may waive any fee or surcharge or exempt individuals from the payment of any fee or surcharge collected by the Department of Homeland Security and the Department of State, respectively, in connection with a petition or application for, or issuance of, an immigrant visa to a national of Afghanistan under section 201(b)(2)(A)(i) or 203(a) of the Immigration and Nationality Act, 8 U.S.C. 1101(b)(2)(A)(i) and 1153(a), respectively.

**SEC. 109. SEVERABILITY.**

If any provision of this title, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this title, and the application of the remaining provisions of this title to any person or circumstance, shall not be affected.

**SEC. 110. DATE LIMITATION.**

The Secretary of Homeland Security may not grant an application for adjustment of status under section 106 or an application for special immigrant status under section 107, or an amendment made by section 107, before the Secretary has implemented the vetting procedures required by this title, and in no event before January 1, 2024.

**SA 6595.** Mr. MERKLEY (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 6552 proposed by Mr. LEAHY to the bill H.R. 2617, to amend section 1115 of title 31, United States Code, to amend the description of how performance goals are achieved, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**DIVISION KK—PUMP FOR NURSING MOTHERS ACT**

**SEC. 101. SHORT TITLE.**

This division may be cited as the “Providing Urgent Maternal Protections for Nursing Mothers Act” or the “PUMP for Nursing Mothers Act”.

**SEC. 102. BREASTFEEDING ACCOMMODATIONS IN THE WORKPLACE.**

(a) **EXPANDING EMPLOYEE ACCESS TO BREAK TIME AND SPACE.**—The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) is amended—

(1) in section 7 (29 U.S.C. 207), by striking subsection (f); and

(2) by inserting after section 18C (29 U.S.C. 218c) the following:

**“SEC. 18D. BREASTFEEDING ACCOMMODATIONS IN THE WORKPLACE.**

“(a) **IN GENERAL.**—An employer shall provide—

“(1) a reasonable break time for an employee to express breast milk for such employee’s nursing child for 1 year after the child’s birth each time such employee has need to express the milk; and

“(2) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

“(b) **COMPENSATION.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), an employer shall not be required to compensate an employee receiving reasonable

break time under subsection (a)(1) for any time spent during the workday for such purpose unless otherwise required by Federal or State law or municipal ordinance.

“(2) **RELIEF FROM DUTIES.**—Break time provided under subsection (a)(1) shall be considered hours worked if the employee is not completely relieved from duty during the entirety of such break.

“(c) **EXEMPTION FOR SMALL EMPLOYERS.**—An employer that employs less than 50 employees shall not be subject to the requirements of this section, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer’s business.

“(d) **EXEMPTION FOR CREWMEMBERS OF AIR CARRIERS.**—

“(1) **IN GENERAL.**—An employer that is an air carrier shall not be subject to the requirements of this section with respect to an employee of such air carrier who is a crewmember

“(2) **DEFINITIONS.**—In this subsection:

“(A) **AIR CARRIER.**—The term ‘air carrier’ has the meaning given such term in section 40102 of title 49, United States Code.

“(B) **CREWMEMBER.**—The term ‘crewmember’ has the meaning given such term in section 1.1 of title 14, Code of Federal Regulations (or successor regulations).

“(e) **APPLICABILITY TO RAIL CARRIERS.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), an employer that is a rail carrier shall be subject to the requirements of this section.

“(2) **CERTAIN EMPLOYEES.**—An employer that is a rail carrier shall be subject to the requirements of this section with respect to an employee of such rail carrier who is a member of a train crew involved in the movement of a locomotive or rolling stock or who is an employee who maintains the right of way, provided that compliance with the requirements of this section does not—

“(A) require the employer to incur significant expense, such as through the addition of such a member of a train crew in response to providing a break described in subsection (a)(1) to another such member of a train crew, removal or retrofitting of seats, or the modification or retrofitting of a locomotive or rolling stock; or

“(B) result in unsafe conditions for an individual who is an employee who maintains the right of way.

“(3) **SIGNIFICANT EXPENSE.**—For purposes of paragraph (2)(A), it shall not be considered a significant expense to modify or retrofit a locomotive or rolling stock by installing a curtain or other screening protection.

“(4) **DEFINITIONS.**—In this subsection:

“(A) **EMPLOYEE WHO MAINTAINS THE RIGHT OF WAY.**—The term ‘employee who maintains the right of way’ means an employee who is a safety-related railroad employee described in section 20102(4)(C) of title 49, United States Code.

“(B) **RAIL CARRIER.**—The term ‘rail carrier’ means an employer described in section 13(b)(2).

“(C) **TRAIN CREW.**—The term ‘train crew’ has the meaning given such term as used in chapter II of subtitle B of title 49, Code of Federal Regulations (or successor regulations).

“(f) **APPLICABILITY TO MOTORCOACH SERVICES OPERATORS.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), an employer that is a motorcoach services operator shall be subject to the requirements of this section.

“(2) **EMPLOYEES WHO ARE INVOLVED IN THE MOVEMENT OF A MOTORCOACH.**—An employer that is a motorcoach services operator shall be subject to the requirements of this sec-

tion with respect to an employee of such motorcoach services operator who is involved in the movement of a motorcoach provided that compliance with the requirements of this section does not—

“(A) require the employer to incur significant expense, such as through the removal or retrofitting of seats, the modification or retrofitting of a motorcoach, or unscheduled stops; or

“(B) result in unsafe conditions for an employee of a motorcoach services operator or a passenger of a motorcoach.

“(3) **SIGNIFICANT EXPENSE.**—For purposes of paragraph (2)(A), it shall not be considered a significant expense—

“(A) to modify or retrofit a motorcoach by installing a curtain or other screening protection if an employee requests such a curtain or other screening protection; or

“(B) for an employee to use scheduled stop time to express breast milk.

“(4) **DEFINITIONS.**—In this subsection:

“(A) **MOTORCOACH; MOTORCOACH SERVICES.**—The terms ‘motorcoach’ and ‘motorcoach services’ have the meanings given the terms in section 32702 of the Motorcoach Enhanced Safety Act of 2012 (49 U.S.C. 31136 note).

“(B) **MOTORCOACH SERVICES OPERATOR.**—The term ‘motorcoach services operator’ means an entity that offers motorcoach services.

“(g) **NOTIFICATION PRIOR TO COMMENCEMENT OF ACTION.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), before commencing an action under section 16(b) for a violation of subsection (a)(2), an employee shall—

“(A) notify the employer of such employee of the failure to provide the place described in such subsection; and

“(B) provide the employer with 10 days after such notification to come into compliance with such subsection with respect to the employee.

“(2) **EXCEPTIONS.**—Paragraph (1) shall not apply in a case in which—

“(A) the employee has been discharged because the employee—

“(i) has made a request for the break time or place described in subsection (a); or

“(ii) has opposed any employer conduct related to this section; or

“(B) the employer has indicated that the employer has no intention of providing the place described in subsection (a)(2).

“(h) **INTERACTION WITH STATE AND FEDERAL LAW.**—

“(1) **LAWS PROVIDING GREATER PROTECTION.**—Nothing in this section shall preempt a State law or municipal ordinance that provides greater protections to employees than the protections provided for under this section.

“(2) **NO EFFECT ON TITLE 49 PREEMPTION.**—This section shall have no effect on the preemption of a State law or municipal ordinance that is preempted under subtitle IV, V, or VII of title 49, United States Code.”.

(b) **CLARIFYING REMEDIES.**—The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) is amended—

(1) in section 15(a) (29 U.S.C. 215(a))—

(A) by striking the period at the end of paragraph (5) and inserting “; and”; and

(B) by adding at the end the following:

“(6) to violate any of the provisions of section 18D.”; and

(2) in section 16(b) (29 U.S.C. 216(b)), by striking “15(a)(3)” each place the term appears and inserting “15(a)(3) or 18D”.

(c) **AUTHORIZING EMPLOYEES TO TEMPORARILY OBSOLETE THE FIELD OF VIEW OF AN IMAGE RECORDING DEVICE ON A LOCOMOTIVE OR ROLLING STOCK WHILE EXPRESSING BREAST MILK.**—Section 20168(f) of title 49, United States Code, is amended—

(1) by striking “A railroad carrier” and inserting the following:

“(1) IN GENERAL.—Except as provided in paragraph (2), a railroad carrier”; and

(2) by adding at the end the following:

“(2) TEMPORARILY OBSCURING FIELD OF VIEW OF AN IMAGE RECORDING DEVICE WHILE EXPRESSING BREAST MILK.—

“(A) IN GENERAL.—For purposes of expressing breast milk, an employee may temporarily obscure the field of view of an image recording device required under this section if the passenger train on which such device is installed is not in motion.

“(B) RESUMING OPERATION.—The crew of a passenger train on which an image recording device has been obscured pursuant to subparagraph (A) shall ensure that such image recording device is no longer obscured immediately after the employee has finished expressing breast milk and before resuming operation of the passenger train.”.

#### SEC. 103. EFFECTIVE DATE.

(a) EXPANDING ACCESS.—The amendments made by section 102(a) shall take effect on the date of enactment of this Act.

(b) REMEDIES AND CLARIFICATION.—The amendments made by section 102(b) shall take effect on the date that is 120 days after the date of enactment of this Act.

(c) AUTHORIZING EMPLOYEES TO TEMPORARILY OBSCURE THE FIELD OF VIEW OF AN IMAGE RECORDING DEVICE ON A LOCOMOTIVE OR ROLLING STOCK WHILE EXPRESSING BREAST MILK.—The amendments made by section 102(c) shall take effect on the date of enactment of this Act.

(d) APPLICATION OF LAW TO EMPLOYEES OF RAIL CARRIERS.—

(1) IN GENERAL.—Section 18D of the Fair Labor Standards Act of 1938 (as added by section 102(a)) shall not apply to employees who are members of a train crew involved in the movement of a locomotive or rolling stock or who are employees who maintain the right of way of an employer that is a rail carrier until the date that is 3 years after the date of enactment of this Act.

(2) DEFINITIONS.—In this subsection:

(A) EMPLOYEE; EMPLOYER.—The terms “employee” and “employer” have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(B) EMPLOYEES WHO MAINTAINS THE RIGHT OF WAY; RAIL CARRIER; TRAIN CREW.—The terms “employee who maintains the right of way”, “rail carrier”, and “train crew” have the meanings given such terms in section 18D(e)(4) of the Fair Labor Standards Act of 1938, as added by section 102(a).

(e) APPLICATION OF LAW TO EMPLOYEES OF MOTORCOACH SERVICES OPERATORS.—

(1) IN GENERAL.—Section 18D of the Fair Labor Standards Act of 1938 (as added by section 102(a)) shall not apply to employees who are involved in the movement of a motorcoach of an employer that is a motorcoach services operator until the date that is 3 years after the date of enactment of this Act.

(2) DEFINITIONS.—In this subsection:

(A) EMPLOYEE; EMPLOYER.—The terms “employee” and “employer” have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(B) MOTORCOACH; MOTORCOACH SERVICES OPERATOR.—The terms “motorcoach” and “motorcoach services operator” have the meanings given such terms in section 18D(f)(4) of the Fair Labor Standards Act of 1938, as added by section 102(a).

**SA 6596.** Mr. GRAHAM (for himself, Mr. WHITEHOUSE, and Mr. BENNET) submitted an amendment intended to be proposed to amendment SA 6552 proposed by Mr. LEAHY to the bill H.R.

2617, to amend section 1115 of title 31, United States Code, to amend the description of how performance goals are achieved, and for other purposes; which was ordered to lie on the table; as follows:

On page 1857, after line 23, add the following:

SEC. 1708. (a) The Attorney General may transfer to the Secretary of State the proceeds of any covered forfeited property for use by the Secretary of State to provide assistance to Ukraine to remediate the harms of Russian aggression towards Ukraine. Any such transfer shall be considered foreign assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), including for purposes of making available the administrative authorities and implementing the reporting requirements contained in that Act.

(b) Not later than 15 days after any transfers made pursuant to subsection (a), the Attorney General, in consultation with the Secretary of the Treasury and the Secretary of State, shall submit a report describing such transfers to the appropriate congressional committees.

(c) In this section:

(1) The term “appropriate congressional committees” means—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(D) the Committee on Appropriations of the Senate;

(E) the Committee on the Judiciary of the House of Representatives;

(F) the Committee on Foreign Affairs of the House of Representatives;

(G) the Committee on Financial Services of the House of Representatives; and

(H) the Committee on Appropriations of the House of Representatives.

(2) The term “covered forfeited property” means property forfeited under chapter 46 or section 1963 of title 18, United States Code, which property belonged to, was possessed by, or was controlled by a person subject to sanctions and designated by the Secretary of the Treasury or the Secretary of State, or which property was involved in an act in violation of sanctions enacted pursuant to Executive Order 14024, and as expanded by Executive Order 14066 of March 8, 2022, and relied on for additional steps taken in Executive Order 14039 of August 20, 2021, and Executive Order 14068 of March 11, 2022.

(d) The authority under this section shall apply to any covered forfeited property forfeited on or before May 1, 2025.

**SA 6597.** Ms. KLOBUCHAR (for herself and Mr. LEE) submitted an amendment intended to be proposed to amendment SA 6552 proposed by Mr. LEAHY to the bill H.R. 2617, to amend section 1115 of title 31, United States Code, to amend the description of how performance goals are achieved, and for other purposes; which was ordered to lie on the table; as follows:

Strike division GG and insert the following:

#### DIVISION GG—MERGER FILING FEE MODERNIZATION

##### SEC. 101. SHORT TITLE.

This division may be cited as the “Merger Filing Fee Modernization Act of 2022”.

#### TITLE I—MODERNIZING MERGER FILING FEE COLLECTIONS; ACCOUNTABILITY REQUIREMENTS; LIMITATION ON FUNDING

##### SEC. 101. MODIFICATION OF PREMERGER NOTIFICATION FILING FEES.

Section 605 of Public Law 101–162 (15 U.S.C. 18a note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “\$45,000” and inserting “\$30,000”;

(ii) by striking “\$100,000,000” and inserting “\$161,500,000”;

(iii) by striking “2004” and inserting “2023”; and

(iv) by striking “2003” and inserting “2022”;

(B) in paragraph (2)—

(i) by striking “\$125,000” and inserting “\$100,000”;

(ii) by striking “\$100,000,000” and inserting “\$161,500,000”;

(iii) by striking “but less” and inserting “but is less”; and

(iv) by striking “and” at the end;

(C) in paragraph (3)—

(i) by striking “\$280,000” and inserting “\$250,000”;

(ii) by striking the period at the end and inserting “but is less than \$1,000,000,000 (as so adjusted and published);”; and

(D) by adding at the end the following:

“(4) \$400,000 if the aggregate total amount determined under section 7A(a)(2) of the Clayton Act (15 U.S.C. 18a(a)(2)) is not less than \$1,000,000,000 (as so adjusted and published) but is less than \$2,000,000,000 (as so adjusted and published);

“(5) \$800,000 if the aggregate total amount determined under section 7A(a)(2) of the Clayton Act (15 U.S.C. 18a(a)(2)) is not less than \$2,000,000,000 (as so adjusted and published) but is less than \$5,000,000,000 (as so adjusted and published); and

“(6) \$2,250,000 if the aggregate total amount determined under section 7A(a)(2) of the Clayton Act (15 U.S.C. 18a(a)(2)) is not less than \$5,000,000,000 (as so adjusted and published).”; and

(2) by adding at the end the following:

“(c)(1) For each fiscal year commencing after September 30, 2023, the filing fees in this section shall be increased by an amount equal to the percentage increase, if any, in the Consumer Price Index, as determined by the Department of Labor or its successor, for the year then ended over the level so established for the year ending September 30, 2022.

“(2) As soon as practicable, but not later than January 31 of each year, the Federal Trade Commission shall publish the adjusted amounts required by paragraph (1).

“(3) The Federal Trade Commission shall not adjust amounts required by paragraph (1) if the percentage increase described in paragraph (1) is less than 1 percent.

“(4) An amount adjusted under this section shall be rounded to the nearest multiple of \$5,000.”.

##### SEC. 102. REPORTING REQUIREMENTS FOR MERGER FEE COLLECTIONS.

(a) FTC AND DOJ JOINT REPORT.—For each of fiscal years 2023 through 2027, the Federal Trade Commission and Department of Justice shall jointly and annually report to the Congress on the operation of section 7A of the Clayton Act (15 U.S.C. 18a) and shall include in such report the following:

(1) The amount of funds made available to the Federal Trade Commission and the Department of Justice, respectively, from the premerger notification filing fees under this section, as adjusted by the Merger Filing Fee Modernization Act of 2022, as compared to the funds made available to the Federal Trade Commission and the Department of

**SA 6558.** Mr. CASSIDY (for himself and Mr. CASEY) submitted an amendment intended to be proposed to amendment SA 6552 proposed by Mr. LEAHY to the bill H.R. 2617, to amend section 1115 of title 31, United States Code, to amend the description of how performance goals are achieved, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**DIVISION \_\_\_—PREGNANT WORKERS**

**SEC. \_\_\_ 1. SHORT TITLE.**

This division may be cited as the “Pregnant Workers Fairness Act”.

**SEC. \_\_\_ 2. DEFINITIONS.**

As used in this division—

(1) the term “Commission” means the Equal Employment Opportunity Commission;

(2) the term “covered entity”—

(A) has the meaning given the term “respondent” in section 701(n) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(n)); and

(B) includes—

(i) an employer, which means a person engaged in industry affecting commerce who has 15 or more employees as defined in section 701(b) of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(ii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301) and section 411(c) of title 3, United States Code;

(iii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16c(a)); and

(iv) an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) applies;

(3) the term “employee” means—

(A) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(B) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), and an individual described in section 201(d) of that Act (2 U.S.C. 1311(d));

(C) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code;

(D) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16c(a)); or

(E) an employee (including an applicant) to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)) applies;

(4) the term “known limitation” means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee’s representative has communicated to the employer whether or not such condition meets the definition of disability specified in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);

(5) the term “person” has the meaning given such term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a));

(6) the term “qualified employee” means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if—

(A) any inability to perform an essential function is for a temporary period;

(B) the essential function could be performed in the near future; and

(C) the inability to perform the essential function can be reasonably accommodated; and

(7) the terms “reasonable accommodation” and “undue hardship” have the meanings given such terms in section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111) and shall be construed as such terms are construed under such Act and as set forth in the regulations required by this division, including with regard to the interactive process that will typically be used to determine an appropriate reasonable accommodation.

**SEC. \_\_\_ 3. NONDISCRIMINATION WITH REGARD TO REASONABLE ACCOMMODATIONS RELATED TO PREGNANCY.**

It shall be an unlawful employment practice for a covered entity to—

(1) not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;

(2) require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process referred to in section \_\_\_2(7);

(3) deny employment opportunities to a qualified employee if such denial is based on the need of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee;

(4) require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or

(5) take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

**SEC. \_\_\_ 4. REMEDIES AND ENFORCEMENT.**

(a) **EMPLOYEES COVERED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—**

(1) **IN GENERAL.—**The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4 et seq.) to the Commission, the Attorney General, or any person alleging a violation of title VII of such Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this division provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this division against an employee described in section \_\_\_2(3)(A) except as provided in paragraphs (2) and (3) of this subsection.

(2) **COSTS AND FEES.—**The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988) shall be the powers, remedies, and procedures this division provides to the Commission, the Attorney General, or any person alleging such practice.

(3) **DAMAGES.—**The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this division provides to the Commission, the Attorney General, or any person alleging such practice (not an employment practice specifically excluded from coverage under section

1977A(a)(1) of the Revised Statutes (42 U.S.C. 1981a(a)(1))).

(b) **EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—**

(1) **IN GENERAL.—**The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) for the purposes of addressing allegations of violations of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this division provides to address an allegation of an unlawful employment practice in violation of this division against an employee described in section \_\_\_2(3)(B), except as provided in paragraphs (2) and (3) of this subsection.

(2) **COSTS AND FEES.—**The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988) for the purposes of addressing allegations of such a violation shall be the powers, remedies, and procedures this division provides to address allegations of such practice.

(3) **DAMAGES.—**The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, for purposes of addressing allegations of such a violation, shall be the powers, remedies, and procedures this division provides to address any allegation of such practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes (42 U.S.C. 1981a(a)(1))).

(c) **EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—**

(1) **IN GENERAL.—**The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person alleging a violation of section 411(a)(1) of such title shall be the powers, remedies, and procedures this division provides to the President, the Commission, the Board, or any person, respectively, alleging an unlawful employment practice in violation of this division against an employee described in section \_\_\_2(3)(C), except as provided in paragraphs (2) and (3) of this subsection.

(2) **COSTS AND FEES.—**The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988) shall be the powers, remedies, and procedures this division provides to the President, the Commission, the Board, or any person alleging such practice.

(3) **DAMAGES.—**The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this division provides to the President, the Commission, the Board, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes (42 U.S.C. 1981a(a)(1))).

(d) **EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.—**

(1) **IN GENERAL.—**The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16b; 2000e-16c) to the Commission or any person alleging a violation of section 302(a)(1) of such Act (42 U.S.C. 2000e-16b(a)(1)) shall be the powers, remedies, and procedures this division provides to the Commission or any person, respectively, alleging an unlawful employment practice in violation of this division against an employee described in section \_\_\_2(3)(D), except as provided in paragraphs (2) and (3) of this subsection.



(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988) shall be the powers, remedies, and procedures this division provides to the Commission or any person alleging such practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this division provides to the Commission or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes (42 U.S.C. 1981a(a)(1))).

(e) EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) to the Commission, the Attorney General, the Librarian of Congress, or any person alleging a violation of that section shall be the powers, remedies, and procedures this division provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this division against an employee described in section 2(3)(E), except as provided in paragraphs (2) and (3) of this subsection.

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988) shall be the powers, remedies, and procedures this division provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this division provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes (42 U.S.C. 1981a(a)(1))).

(f) PROHIBITION AGAINST RETALIATION.—

(1) IN GENERAL.—No person shall discriminate against any employee because such employee has opposed any act or practice made unlawful by this division or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this division.

(2) PROHIBITION AGAINST COERCION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual having exercised or enjoyed, or on account of such individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this division.

(3) REMEDY.—The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

(g) LIMITATION.—Notwithstanding subsections (a)(3), (b)(3), (c)(3), (d)(3), and (e)(3), if an unlawful employment practice involves the provision of a reasonable accommodation pursuant to this division or regulations implementing this division, damages may not be awarded under section 1977A of the Revised Statutes (42 U.S.C. 1981a) if the covered entity demonstrates good faith efforts, in consultation with the employee with known limitations related to pregnancy, childbirth, or related medical conditions who has in-

formed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such employee with an equally effective opportunity and would not cause an undue hardship on the operation of the covered entity.

#### SEC. 5. RULEMAKING.

(a) EEOC RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format in accordance with subchapter II of chapter 5 of title 5, United States Code, to carry out this division. Such regulations shall provide examples of reasonable accommodations addressing known limitations related to pregnancy, childbirth, or related medical conditions.

(b) OCWR RULEMAKING.—

(1) IN GENERAL.—Not later than 6 months after the Commission issues regulations under subsection (a), the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) shall (in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384)), issue regulations to implement the provisions of this division made applicable to employees described in section 2(3)(B), under section 4(b).

(2) PARALLEL WITH AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations issued by the Commission under subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulations issued under paragraph (1) that a modification of such substantive regulations would be more effective for the implementation of the rights and protection under this division.

#### SEC. 6. WAIVER OF STATE IMMUNITY.

A State shall not be immune under the 11th Amendment to the Constitution from an action in a Federal or State court of competent jurisdiction for a violation of this division. In any action against a State for a violation of this division, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

#### SEC. 7. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Nothing in this division shall be construed—

(1) to invalidate or limit the powers, remedies, and procedures under any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for individuals affected by pregnancy, childbirth, or related medical conditions; or

(2) by regulation or otherwise, to require an employer-sponsored health plan to pay for or cover any particular item, procedure, or treatment or to affect any right or remedy available under any other Federal, State, or local law with respect to any such payment or coverage requirement.

(b) RULE OF CONSTRUCTION.—This division is subject to the applicability to religious employment set forth in section 702(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1(a)).

#### SEC. 8. SEVERABILITY.

If any provision of this division or the application of that provision to particular persons or circumstances is held invalid or found to be unconstitutional, the remainder of this division and the application of that provision to other persons or circumstances shall not be affected.

#### SEC. 9. EFFECTIVE DATE.

This division shall take effect on the date that is 180 days after the date of enactment of this Act.

**SA 6559.** Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 6552 proposed by Mr. LEAHY to the bill H.R. 2617, to amend section 1115 of title 31, United States Code, to amend the description of how performance goals are achieved, and for other purposes; which was ordered to lie on the table; as follows:

On page 757, between lines 15 and 16, insert the following:

SEC. 550. (a) Except as provided in subsection (b), none of the funds made available under this division may be used by the Department of Homeland Security—

(1) to transport aliens who are unlawfully present in the United States; or

(2) to award grants or contracts to third parties to provide transportation within the United States to aliens described in paragraph (1).

(b) Funds made available under this division may be used by the Department of Homeland Security—

(1) to return any alien who is unlawfully present in the United States to—

(A) such alien's country of origin;

(B) Mexico; or

(C) the first safe country through which such alien traveled en route to the United States; or

(2) to transport any such alien—

(A) to a Federal detention facility; or

(B) to a Federal courthouse or other Federal facility for an immigration proceeding.

**SA 6560.** Mr. COTTON submitted an amendment intended to be proposed to amendment SA 6552 proposed by Mr. LEAHY to the bill H.R. 2617, to amend section 1115 of title 31, United States Code, to amend the description of how performance goals are achieved, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. IMPROVEMENTS TO THE JUSTICE FOR UNITED STATES VICTIMS OF STATE SPONSORED TERRORISM ACT.

(a) SHORT TITLE.—This section may be cited as the "Fairness for 9/11 Families Act".

(b) IN GENERAL.—Section 404 of the Justice for United States Victims of State Sponsored Terrorism Act (34 U.S.C. 20144) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B), in the first sentence, by inserting "and during the 1-year period beginning on the date of enactment of the Fairness for 9/11 Families Act, the Special Master may utilize an additional 5 full-time equivalent Department of Justice personnel" before the period at the end; and

(B) in paragraph (2)(A), by inserting "Not later than 30 days after the date of enactment of the Fairness for 9/11 Families Act, the Special Master shall update, as necessary as a result of the enactment of such Act, such procedures and other guidance previously issued by the Special Master." after the period at the end of the second sentence;

(2) in subsection (c)(3)(A), by striking clause (ii) and inserting the following:

"(ii) Not later than 90 days after the date of obtaining a final judgment, with regard to a final judgment obtained on or after the date of that publication, unless—

"(I) the final judgment was awarded to a 9/11 victim, 9/11 spouse, or 9/11 dependent before the date of enactment of the United States Victims of State Sponsored Terrorism Fund Clarification Act, in which case such United States person shall have 90 days from the date of enactment of such Act to submit an application for payment; or



## **An Introduction to the Pregnant Workers Fairness Act (PWFA)**

March 14, 2023

### **Speaker Bios**



**Cynthia Thomas Calvert** is the Senior Advisor to the Center for WorkLife Law at UC College of the Law San Francisco. She worked with Joan C. Williams, the founding director of WorkLife Law, to pioneer the research behind family caregiver discrimination. Cynthia's work includes counseling employees who are facing discrimination because of pregnancy or their caregiving roles, advising plaintiffs' lawyers who are litigating pregnancy and caregiver claims, and public education about the laws that protect pregnant employees and caregivers. She is also

the principal of Workforce 21C, which helps employers to advance women and better manage employees who are pregnant, breastfeeding, or caring for family members. Cynthia is an employment lawyer, had her own management-side law practice focused on compliance, and was a partner in a Washington, D.C. litigation law firm. She is a frequent presenter, is often quoted in the press, and writes extensively about women, inclusion, and caregivers in the workplace.

Cynthia Thomas Calvert, [cynthiacalvert@worklifelaw.org](mailto:cynthiacalvert@worklifelaw.org)



**Vania Leveille** is the senior legislative counsel at the American Civil Liberties Union National Political Advocacy Department and serves as the organization's chief lobbyist and campaign strategist for women's rights and disability rights. Ms. Leveille covers a broad portfolio of issues. She is known for her visionary leadership and tenacious, creative, and strategic approach to federal advocacy. She has led several successful legislative campaigns including ones that improved workplace harassment laws, secured congressional funding for abortion care for women

serving in our armed forces, prevented the abuse and trafficking of domestic workers employed by foreign diplomats in the United States, and protected the rights of people with disabilities to live in their homes and communities instead of institutions. Most recently, she was a leader in the successful congressional campaigns to pass the Pregnant Workers Fairness Act and the PUMP for Nursing Mothers Act. She is currently a Board Member of the Consortium for Constituents with Disabilities.

Vania Leveille, [vleveille@aclu.org](mailto:vleveille@aclu.org)



**Liz Morris** (she/her) is the deputy director of the Center for WorkLife Law, an advocacy and research center that builds legal rights in employment and education for family caregivers struggling to take care of their loved ones while making ends meet. Liz leads WorkLife Law's legal team, which has counseled thousands of workers in need of pregnancy and lactation accommodations and developed novel legal theories adopted by courts around the country to expand workplace protections.

Liz's writing on pregnancy and motherhood discrimination has been published in *The New York Times*, *L.A. Times*, *Harvard Business Review*, and *Slate*. She coauthored The Center for WorkLife Law's 2018 report, *Exposed: Discrimination Against Breastfeeding Workers*, which provided the rallying cry for the PUMP for Nursing Mothers Act. Model legislation drafted by Liz and her colleagues served as the basis for the PUMP Act, and she was a leader in the broad coalition that successfully advocated for the bill's passage. Prior to joining the Center for WorkLife Law, Liz represented working people in class actions challenging abusive employment practices. Liz also co-taught Advanced Employment Law for six years at the University of California College of the Law, San Francisco. Following two difficult pregnancies, Liz understands firsthand the critical importance of accommodating the health needs of pregnant people in the workplace.

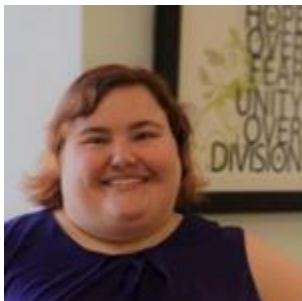
Liz Morris, [morrisliz@uchastings.edu](mailto:morrisliz@uchastings.edu)



**Gillian Thomas** is a Senior Staff Attorney with the American Civil Liberties Union Women's Rights Project, where she specializes in employment law. She previously litigated sex discrimination cases at the U.S. Equal Employment Opportunity Commission and at Legal Momentum (formerly NOW Legal Defense and Education Fund), as well as at private firms in New York and Philadelphia. She is the author of *Because of Sex: One Law, Ten Cases, and Fifty Years That Changed American Women's Lives at Work* (St. Martin's Press 2016), and has written extensively about pregnancy

discrimination, including in the *Yale Journal of Law and Feminism* and *Harvard Law & Policy Review*. She regularly litigates pregnancy discrimination claims, either as direct counsel or *amicus*, and she successfully argued *Durham v. Rural/Metro Corporation*, 955 F.3d 1279 (11th Cir. 2020), on behalf of an EMT denied accommodations during pregnancy.

Gillian Thomas, [gthomas@aclu.org](mailto:gthomas@aclu.org)



**Ashley O. Westby** is a Colorado native, and the daughter of two blue collar workers who taught her the importance of workers' rights. Ashley received her B.A. magna cum laude in Political Science from The George Washington University, and her J.D. cum laude from The American University, Washington College of Law.

Ashley Westby, [awestby@nelahq.org](mailto:awestby@nelahq.org)

**ACLU Women's Rights Project**

<https://www.aclu.org/other/about-aclu-womens-rights-project>

**WorkLife Law**

[www.worklifelaw.org](http://www.worklifelaw.org)

**WorkLife Law Free Legal Hotline for Workers**

[hotline@worklifelaw.org](mailto:hotline@worklifelaw.org) or leave message at 415.703.8276

**NELA**

<https://www.nela.org/>