

Representative Paul Brodeur, Chair
Joint Committee on Labor and Workforce Development
State House, Room 472
Boston, MA 02133

March 4, 2017

RE: Senate No. 1023: An Act establishing the Massachusetts pregnant workers fairness act

Dear Chair Brodeur,

I write as the lead Senate sponsor of S.1023, “An Act establishing the Massachusetts pregnant workers fairness act,” to offer my strong support for the bill. The Pregnant Workers Fairness Act represents a commitment shared by both labor and business employers to support equal opportunities for pregnant women in the workplace.

Over half of all pregnant women and new mothers in Massachusetts are in the workforce, earning income that is critical to their families’ health and success. Economic realities prohibit many women from taking unpaid time off during their pregnancy. Yet, some employers fail to provide reasonable accommodations for pregnant workers—such as a stool to sit on or more frequent bathroom breaks—leading women to choose between the security of their jobs and the health of their pregnancy. Although employers may not legally discriminate based on pregnancy, the law’s failure to adequately define reasonable accommodations allows employers to *de facto* force pregnant women to leave their jobs or risk their pregnancies.

S.1023 closes gaps in existing law by amending M.G.L. section 4, Chapter 151B to explicitly require the provision of reasonable accommodations for pregnancy and related conditions. Accommodations may include: more frequent or longer bathroom breaks, a stool to sit on, the allowance of a water bottle, or temporary transfer to less strenuous or hazardous positions. The Pregnant Workers Fairness Act would prohibit: adverse action against an employee who requests a reasonable accommodation, including failing to reinstate an employee to her original job or to an equivalent position; denying employment opportunities to an employee based on need for accommodations; requiring an employee to take an unnecessary accommodation; requiring an employee to take leave if another reasonable accommodation

exists; and refusing to hire an applicant capable of performing the essential functions of the position due to need for temporary accommodations. However, the bill clarifies that an employer need not provide accommodations which would “impose an undue hardship on the employer’s program, enterprise, or business.” The bill further lays out the process by which employers and employees must work together to determine “effective reasonable accommodations to enable the employee to perform the essential functions of the employee’s job,” ensuring that employees and employers will have legal procedures through which both parties can come to a reasonable agreement on effective accommodations. By explicitly requiring employers to provide reasonable, defined accommodations for pregnant employees, the Pregnant Workers Fairness Act will ensure that pregnant women are secure in their careers and employers are able to effectively run their businesses.

The Pregnant Workers Fairness Act in its current form represents a shared commitment between labor and business to support pregnant women in the workplace. Months of respectful compromise have gone into the language of S.1023, resulting in a bill that is uniquely pro-labor and pro-business. S.1023 promotes the overall economy and is the right answer for all sides in the Commonwealth.

For these reasons, I reiterate my strong support for S.1023, the Pregnant Workers Fairness Act, and respectfully request the Committee’s positive consideration. Thank you.

Sincerely,

Joan B. Lovely