

115TH CONGRESS
1ST SESSION

H. R. 2417

To eliminate discrimination and promote women's health and economic security by ensuring reasonable workplace accommodations for workers whose ability to perform the functions of a job are limited by pregnancy, childbirth, or a related medical condition.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2017

Mr. NADLER (for himself, Mr. COFFMAN, Mr. SCOTT of Virginia, Mr. KATKO, Mrs. CAROLYN B. MALONEY of New York, and Ms. SPEIER) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, Oversight and Government Reform, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To eliminate discrimination and promote women's health and economic security by ensuring reasonable workplace accommodations for workers whose ability to perform the functions of a job are limited by pregnancy, childbirth, or a related medical condition.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. NONDISCRIMINATION WITH REGARD TO REASON-**
5 **ABLE ACCOMMODATIONS RELATED TO PREG-**
6 **NANCY.**

7 It shall be an unlawful employment practice for a cov-
8 ered entity to—

9 (1) not make reasonable accommodations to the
10 known limitations related to the pregnancy, child-
11 birth, or related medical conditions of a job appli-
12 cant or employee, unless such covered entity can
13 demonstrate that the accommodation would impose
14 an undue hardship on the operation of the business
15 of such covered entity;

16 (2) require a job applicant or employee affected
17 by pregnancy, childbirth, or related medical condi-
18 tions to accept an accommodation that such appli-
19 cant or employee chooses not to accept, if such ac-
20 commodation is unnecessary to enable the applicant
21 or employee to perform her job;

22 (3) deny employment opportunities to a job ap-
23 plicant or employee, if such denial is based on the
24 need of the covered entity to make reasonable ac-
25 commodations to the known limitations related to

1 the pregnancy, childbirth, or related medical condi-
2 tions of an employee or applicant;

3 (4) require an employee to take leave, whether
4 paid or unpaid, if another reasonable accommodation
5 can be provided to the known limitations related to
6 the pregnancy, childbirth, or related medical condi-
7 tions of an employee; or

8 (5) take adverse action in terms, conditions, or
9 privileges of employment against an employee on ac-
10 count of the employee requesting or using a reason-
11 able accommodation to the known limitations related
12 to the pregnancy, childbirth, or related medical con-
13 ditions of the employee.

14 **SEC. 3. REMEDIES AND ENFORCEMENT.**

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

17 (1) IN GENERAL.—The powers, procedures, and
18 remedies provided in sections 705, 706, 707, 709,
19 710, and 711 of the Civil Rights Act of 1964 (42
20 U.S.C. 2000e–4 et seq.) to the Commission, the At-
21 torney General, or any person, alleging a violation of
22 title VII of that Act (42 U.S.C. 2000e et seq.) shall
23 be the powers, procedures, and remedies this Act
24 provides to the Commission, the Attorney General,
25 or any person, respectively, alleging an unlawful em-

1 employment practice in violation of this Act against an
2 employee described in section 5(3)(A), except as pro-
3 vided in paragraphs (2) and (3).

4 (2) COSTS AND FEES.—The powers, remedies,
5 and procedures provided in subsections (b) and (c)
6 of section 722 of the Revised Statutes of the United
7 States (42 U.S.C. 1988), shall be the powers, rem-
8 edies, and procedures this Act provides to the Com-
9 mission, the Attorney General, or any person, alleg-
10 ing such a practice.

11 (3) DAMAGES.—The powers, remedies, and pro-
12 cedures provided in section 1977A of the Revised
13 Statutes of the United States (42 U.S.C. 1981a), in-
14 cluding the limitations contained in subsection (b)(3)
15 of such section 1977A, shall be the powers, rem-
16 edies, and procedures this Act provides to the Com-
17 mission, the Attorney General, or any person, alleg-
18 ing such a practice (not an employment practice spe-
19 cifically excluded from coverage under section
20 1977A(a)(1) of the Revised Statutes of the United
21 States).

22 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
23 COUNTABILITY ACT OF 1995.—

24 (1) IN GENERAL.—The powers, remedies, and
25 procedures provided in the Congressional Account-

1 ability Act of 1995 (2 U.S.C. 1301 et seq.) to the
2 Board (as defined in section 101 of that Act (2
3 U.S.C. 1301)), or any person, alleging a violation of
4 section 201(a)(1) of that Act (2 U.S.C. 1311(a)(1))
5 shall be the powers, remedies, and procedures this
6 Act provides to that Board, or any person, alleging
7 an unlawful employment practice in violation of this
8 Act against an employee described in section
9 5(3)(B), except as provided in paragraphs (2) and
10 (3).

11 (2) COSTS AND FEES.—The powers, remedies,
12 and procedures provided in subsections (b) and (c)
13 of section 722 of the Revised Statutes of the United
14 States (42 U.S.C. 1988), shall be the powers, rem-
15 edies, and procedures this Act provides to that
16 Board, or any person, alleging such a practice.

17 (3) DAMAGES.—The powers, remedies, and pro-
18 cedures provided in section 1977A of the Revised
19 Statutes of the United States (42 U.S.C. 1981a), in-
20 cluding the limitations contained in subsection (b)(3)
21 of such section 1977A, shall be the powers, rem-
22 edies, and procedures this Act provides to that
23 Board, or any person, alleging such a practice (not
24 an employment practice specifically excluded from

1 coverage under section 1977A(a)(1) of the Revised
2 Statutes of the United States).

3 (4) OTHER APPLICABLE PROVISIONS.—With re-
4 spect to a claim alleging a practice described in
5 paragraph (1), title III of the Congressional Ac-
6 countability Act of 1995 (2 U.S.C. 1381 et seq.)
7 shall apply in the same manner as such title applies
8 with respect to a claim alleging a violation of section
9 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

10 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
11 3, UNITED STATES CODE.—

12 (1) IN GENERAL.—The powers, remedies, and
13 procedures provided in chapter 5 of title 3, United
14 States Code, to the President, the Commission, the
15 Merit Systems Protection Board, or any person, al-
16 leging a violation of section 411(a)(1) of that title,
17 shall be the powers, remedies, and procedures this
18 Act provides to the President, the Commission, such
19 Board, or any person, respectively, alleging an un-
20 lawful employment practice in violation of this Act
21 against an employee described in section 5(3)(C), ex-
22 cept as provided in paragraphs (2) and (3).

23 (2) COSTS AND FEES.—The powers, remedies,
24 and procedures provided in subsections (b) and (c)
25 of section 722 of the Revised Statutes of the United

1 States (42 U.S.C. 1988) shall be the powers, rem-
2 edies, and procedures this Act provides to the Presi-
3 dent, the Commission, such Board, or any person,
4 alleging such a practice.

5 (3) DAMAGES.—The powers, remedies, and pro-
6 cedures provided in section 1977A of the Revised
7 Statutes of the United States (42 U.S.C. 1981a), in-
8 cluding the limitations contained in subsection (b)(3)
9 of such section 1977A, shall be the powers, rem-
10 edies, and procedures this Act provides to the Presi-
11 dent, the Commission, such Board, or any person,
12 alleging such a practice (not an employment practice
13 specifically excluded from coverage under section
14 1977A(a)(1) of the Revised Statutes of the United
15 States).

16 (d) EMPLOYEES COVERED BY GOVERNMENT EM-
17 PLOYEE RIGHTS ACT OF 1991.—

18 (1) IN GENERAL.—The powers, remedies, and
19 procedures provided in sections 302 and 304 of the
20 Government Employee Rights Act of 1991 (42
21 U.S.C. 2000e–16b; 2000e–16c) to the Commission,
22 or any person, alleging a violation of section
23 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1))
24 shall be the powers, remedies, and procedures this
25 Act provides to the Commission, or any person, re-

1 spectively, alleging an unlawful employment practice
2 in violation of this Act against an employee de-
3 scribed in section 5(3)(D), except as provided in
4 paragraphs (2) and (3).

5 (2) COSTS AND FEES.—The powers, remedies,
6 and procedures provided in subsections (b) and (c)
7 of section 722 of the Revised Statutes of the United
8 States (42 U.S.C. 1988) shall be the powers, rem-
9 edies, and procedures this Act provides to the Com-
10 mission, or any person, alleging such a practice.

11 (3) DAMAGES.—The powers, remedies, and pro-
12 cedures provided in section 1977A of the Revised
13 Statutes of the United States (42 U.S.C. 1981a), in-
14 cluding the limitations contained in subsection (b)(3)
15 of such section 1977A, shall be the powers, rem-
16 edies, and procedures this Act provides to the Com-
17 mission, or any person, alleging such a practice (not
18 an employment practice specifically excluded from
19 coverage under section 1977A(a)(1) of the Revised
20 Statutes of the United States).

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

23 (1) IN GENERAL.—The powers, remedies, and
24 procedures provided in section 717 of the Civil
25 Rights Act of 1964 (42 U.S.C. 2000e–16) to the

1 Commission, the Attorney General, the Librarian of
2 Congress, or any person, alleging a violation of that
3 section shall be the powers, remedies, and proce-
4 dures this Act provides to the Commission, the At-
5 torney General, the Librarian of Congress, or any
6 person, respectively, alleging an unlawful employ-
7 ment practice in violation of this Act against an em-
8 ployee or applicant described in section 5(3)(E), ex-
9 cept as provided in paragraphs (2) and (3).

10 (2) COSTS AND FEES.—The powers, remedies,
11 and procedures provided in subsections (b) and (c)
12 of section 722 of the Revised Statutes of the United
13 States (42 U.S.C. 1988) shall be the powers, rem-
14 edies, and procedures this Act provides to the Com-
15 mission, the Attorney General, the Librarian of Con-
16 gress, or any person, alleging such a practice.

17 (3) DAMAGES.—The powers, remedies, and pro-
18 cedures provided in section 1977A of the Revised
19 Statutes of the United States (42 U.S.C. 1981a), in-
20 cluding the limitations contained in subsection (b)(3)
21 of such section 1977A, shall be the powers, rem-
22 edies, and procedures this Act provides to the Com-
23 mission, the Attorney General, the Librarian of Con-
24 gress, or any person, alleging such a practice (not an
25 employment practice specifically excluded from cov-

1 erage under section 1977A(a)(1) of the Revised
2 Statutes of the United States).

3 (f) PROHIBITION AGAINST RETALIATION.—

4 (1) IN GENERAL.—No person shall discriminate
5 against any individual because such individual has
6 opposed any act or practice made unlawful by this
7 Act or because such individual made a charge, testi-
8 fied, assisted, or participated in any manner in an
9 investigation, proceeding, or hearing under this Act.

10 (2) PROHIBITION AGAINST COERCION.—It shall
11 be unlawful to coerce, intimidate, threaten, or inter-
12 fere with any individual in the exercise or enjoyment
13 of, or on account of such individual having exercised
14 or enjoyed, or on account of such individual having
15 aided or encouraged any other individual in the exer-
16 cise or enjoyment of, any right granted or protected
17 by this Act.

18 (3) REMEDY.—The remedies and procedures
19 otherwise provided for under this section shall be
20 available to aggrieved individuals with respect to vio-
21 lations of this subsection.

22 **SEC. 4. RULEMAKING.**

23 Not later than 2 years after the date of enactment
24 of this Act, the Commission shall issue regulations in an
25 accessible format in accordance with subchapter II of

1 chapter 5 of title 5, United States Code, to carry out this
2 Act. Such regulations shall provide examples of reasonable
3 accommodations addressing known limitations related to
4 pregnancy, childbirth, or related medical conditions that
5 shall be provided to a job applicant or employee affected
6 by such known limitations unless the covered entity can
7 demonstrate that doing so would impose an undue hard-
8 ship.

9 **SEC. 5. DEFINITIONS.**

10 As used in this Act—

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

13 (2) the term “covered entity”—

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

17 (B) includes—

18 (i) an employing office, as defined in
19 section 101 of the Congressional Account-
20 ability Act of 1995 (2 U.S.C. 1301) and
21 section 411(c) of title 3, United States
22 Code;

23 (ii) an entity employing a State em-
24 ployee described in section 304(a) of the

1 Government Employee Rights Act of 1991
2 (42 U.S.C. 2000e–16c(a)); and

3 (iii) an entity to which section 717(a)
4 of the Civil Rights Act of 1964 (42 U.S.C.
5 2000e–16(a)) applies;

6 (3) the term “employee” means—

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

10 (B) a covered employee (including an ap-
11 plicant), as defined in section 101 of the Con-
12 gressional Accountability Act of 1995 (2 U.S.C.
13 1301);

14 (C) a covered employee (including an appli-
15 cant), as defined in section 411(c) of title 3,
16 United States Code;

17 (D) a State employee (including an appli-
18 cant) described in section 304(a) of the Govern-
19 ment Employee Rights Act of 1991 (42 U.S.C.
20 2000e–16c(a)); or

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

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

4 (5) the terms “reasonable accommodation” and
5 “undue hardship” have the meanings given such
6 terms in section 101 of the Americans with Disabil-
7 ities Act of 1990 (42 U.S.C. 12111) and shall be
8 construed as such terms have been construed under
9 such Act and as set forth in the regulations required
10 by this Act, including with regard to the interactive
11 process that will typically be used to determine an
12 appropriate reasonable accommodation.

13 **SEC. 6. WAIVER OF STATE IMMUNITY.**

14 A State shall not be immune under the 11th Amend-
15 ment to the Constitution of the United States from an
16 action in a Federal or State court of competent jurisdic-
17 tion for a violation of this Act. In any action against a
18 State for a violation of the requirements of this Act, rem-
19 edies (including remedies both at law and in equity) are
20 available for such a violation to the same extent as such
21 remedies are available for such a violation in an action
22 against any public or private entity other than a State.

23 **SEC. 7. RELATIONSHIP TO OTHER LAWS.**

24 Nothing in this Act shall be construed to invalidate
25 or limit the remedies, rights, and procedures of any Fed-

1 eral law or law of any State or political subdivision of any
2 State or jurisdiction that provides greater or equal protec-
3 tion for workers affected by pregnancy, childbirth, or re-
4 lated medical conditions.

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