

116TH CONGRESS  
1ST SESSION

# H. R. 2694

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.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2019

Mr. NADLER (for himself, Mr. KATKO, Mrs. MCBATH, Ms. HERRERA BEUTLER, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on House Administration, Oversight and 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

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## 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,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. NONDISCRIMINATION WITH REGARD TO REASON-**  
2 **ABLE ACCOMMODATIONS RELATED TO PREG-**  
3 **NANCY.**

4 It shall be an unlawful employment practice for a cov-  
5 ered entity to—

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

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

19 (3) deny employment opportunities to a job ap-  
20 plicant or employee, if such denial is based on the  
21 need of the covered entity to make reasonable ac-  
22 commodations to the known limitations related to  
23 the pregnancy, childbirth, or related medical condi-  
24 tions of an employee or applicant;

25 (4) require an employee to take leave, whether  
26 paid or unpaid, if another reasonable accommodation

1 can be provided to the known limitations related to  
2 the pregnancy, childbirth, or related medical condi-  
3 tions of an employee; or

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

10 **SEC. 3. REMEDIES AND ENFORCEMENT.**

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

13 (1) IN GENERAL.—The powers, procedures, and  
14 remedies provided in sections 705, 706, 707, 709,  
15 710, and 711 of the Civil Rights Act of 1964 (42  
16 U.S.C. 2000e–4 et seq.) to the Commission, the At-  
17 torney General, or any person, alleging a violation of  
18 title VII of that Act (42 U.S.C. 2000e et seq.) shall  
19 be the powers, procedures, and remedies this Act  
20 provides to the Commission, the Attorney General,  
21 or any person, respectively, alleging an unlawful em-  
22 ployment practice in violation of this Act against an  
23 employee described in section 5(3)(A), except as pro-  
24 vided in paragraphs (2) and (3).

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

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

19          (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-  
20          COUNTABILITY ACT OF 1995.—

21               (1) IN GENERAL.—The powers, remedies, and  
22               procedures provided in the Congressional Account-  
23               ability Act of 1995 (2 U.S.C. 1301 et seq.) to the  
24               Board (as defined in section 101 of that Act (2  
25               U.S.C. 1301)), or any person, alleging a violation of

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

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

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

24 (4) OTHER APPLICABLE PROVISIONS.—With re-  
25 spect to a claim alleging a practice described in

1 paragraph (1), title III of the Congressional Ac-  
2 countability Act of 1995 (2 U.S.C. 1381 et seq.)  
3 shall apply in the same manner as such title applies  
4 with respect to a claim alleging a violation of section  
5 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

6 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE  
7 3, UNITED STATES CODE.—

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

19 (2) COSTS AND FEES.—The powers, remedies,  
20 and procedures provided in subsections (b) and (c)  
21 of section 722 of the Revised Statutes of the United  
22 States (42 U.S.C. 1988) shall be the powers, rem-  
23 edies, and procedures this Act provides to the Presi-  
24 dent, the Commission, such Board, or any person,  
25 alleging such a practice.

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

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

14               (1) IN GENERAL.—The powers, remedies, and  
15               procedures provided in sections 302 and 304 of the  
16               Government Employee Rights Act of 1991 (42  
17               U.S.C. 2000e–16b; 2000e–16c) to the Commission,  
18               or any person, alleging a violation of section  
19               302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1))  
20               shall be the powers, remedies, and procedures this  
21               Act provides to the Commission, or any person, re-  
22               spectively, alleging an unlawful employment practice  
23               in violation of this Act against an employee de-  
24               scribed in section 5(3)(D), except as provided in  
25               paragraphs (2) and (3).

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

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

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

19               (1) IN GENERAL.—The powers, remedies, and  
20               procedures provided in section 717 of the Civil  
21               Rights Act of 1964 (42 U.S.C. 2000e–16) to the  
22               Commission, the Attorney General, the Librarian of  
23               Congress, or any person, alleging a violation of that  
24               section shall be the powers, remedies, and proce-  
25               dures this Act provides to the Commission, the At-



1       torney General, the Librarian of Congress, or any  
2       person, respectively, alleging an unlawful employ-  
3       ment practice in violation of this Act against an em-  
4       ployee or applicant described in section 5(3)(E), ex-  
5       cept as provided in paragraphs (2) and (3).

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

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

24      (f) PROHIBITION AGAINST RETALIATION.—

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

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

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

19   **SEC. 4. RULEMAKING.**

20       Not later than 2 years after the date of enactment  
21      of this Act, the Commission shall issue regulations in an  
22      accessible format in accordance with subchapter II of  
23      chapter 5 of title 5, United States Code, to carry out this  
24      Act. Such regulations shall provide examples of reasonable  
25      accommodations addressing known limitations related to

1 pregnancy, childbirth, or related medical conditions that  
2 shall be provided to a job applicant or employee affected  
3 by such known limitations unless the covered entity can  
4 demonstrate that doing so would impose an undue hard-  
5 ship.

6 **SEC. 5. DEFINITIONS.**

7 As used in this Act—

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

10 (2) the term “covered entity”—

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

14 (B) includes—

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

20 (ii) an entity employing a State em-  
21 ployee described in section 304(a) of the  
22 Government Employee Rights Act of 1991  
23 (42 U.S.C. 2000e–16c(a)); and

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

4 (3) the term “employee” means—

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

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

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

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

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

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

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

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

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

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

21           Nothing in this Act shall be construed to invalidate  
22           or limit the remedies, rights, and procedures of any Fed-  
23           eral law or law of any State or political subdivision of any  
24           State or jurisdiction that provides greater or equal protec-

- 1 tion for workers affected by pregnancy, childbirth, or re-
- 2 lated medical conditions.

