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OPINION

# Today's Business: Pregnant workers and new mothers gain workplace protections

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Gary Phelan Contributed photo

America breathed a sigh of relief on Dec. 23 when the U.S. Senate reached agreement on a \$1.7 trillion omnibus spending bill, averting a government shutdown. The bill included a wide spectrum of items, from \$47 billion to help Ukraine in its war with Russia to \$858 billion for defense and \$772 billion for educational, health and veterans' programs. But two provisions without hefty price tags will transform the workplace for mothers, mothers-to-be and working families.

By a vote of 73-24, the Senate passed the Pregnant Workers Fairness Act (PWFA), first introduced in 2012. It is closely modeled after the Americans with Disabilities Act. It will require employers with 15 or more employees to provide reasonable accommodation for pregnant employees, such as providing extra bathroom breaks, modified schedules or duties, the ability to carry a water bottle, the option to sit during a shift, light duty assignments and reducing lifting requirements.

Employers and employees will need to engage in good faith, identifying reasonable accommodations. The legislation, in particular, will help expecting and new moms in low-wage and frontline jobs.

The bill's Senate co-sponsor, Sen. Bob Casey, D-Pa., said "this legislation would provide commonsense protections for pregnant workers so they can continue to work while not putting extra strain on their pregnancies." Fellow co-sponsor, Sen. Bill Cassidy, R-La., previously remarked that the bill was "pro-family, pro-mother, pro-baby, pro-employer and pro-economy."

The push to pass it was led by the New York City-based nonprofit A Better Balance. (Full disclosure: I was once on its board of directors.) In a statement accompanying the bill's passage, the nonprofit's co-founder and co-president, Dina Bakst, stated that "with PWFA, pregnant workers will no longer have to make the impossible choice between the health of her pregnancy and affording food for her family. A new mom won't face job loss when she's still recovering from childbirth. Employers can no longer treat pregnant workers like they are expendable once they find out they are expecting a child or need a modest accommodation to prevent serious health complications."

Bakst's 2012 op-ed newspaper commentary, "Pregnant, and Pushed Out of a Job," published nationally, was the catalyst for the PWFA. She noted in her article that "thousands of pregnant women are pushed out of jobs that they are perfectly capable of performing – either put on unpaid leave or simply fired – when they request an accommodation to help maintain a healthy pregnancy. Many are single mothers or a family's primary breadwinner."

Thirty states, including Connecticut, now have laws which require reasonable accommodation for pregnant employees. However, state workplace laws often do not have as much impact or garner as much attention as when a federal law addresses the topic. For example, before the Americans with Disabilities Act passed in 1990, almost all states had a hodgepodge of laws prohibiting disability discrimination in some way. Nevertheless, the federal law was adapted to "provide a clear and comprehensive national mandate" to eliminate disability discrimination and "clear, strong, consistent, enforceable standards" addressing disability discrimination. Similarly, the PWFA now provides a similar national mandate with clear enforceable standards requiring employers to accommodate new mothers and pregnant employees.

By a vote of 93 to 5, the Senate also passed the PUMP for Nursing Mothers Act, which provides workers with the right to break time and space to express milk. (Connecticut already has protection for nursing mothers in the workplace.)

President Biden signed the omnibus spending bill Dec. 28. The PWFA will be effective after June 23, 2023; the PUMP Act on April 28, 2023. The delay provides employers an opportunity to train supervisors to comply with the groundbreaking laws.

Bakst observed in 2012 that three-fourths of women entering the workforce will become pregnant on the job at some point. Now there will be greater awareness among these pregnant women and new mothers – and employers – of enhanced legal protections.

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