

112TH CONGRESS
2D SESSION

H. R. 5647

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 8, 2012

Mr. NADLER (for himself, Mrs. MALONEY, Ms. SPEIER, Mrs. DAVIS of California, Ms. FUDGE, Mr. GEORGE MILLER of California, Mr. HIGGINS, Mr. RANGEL, Mr. JACKSON of Illinois, Mr. GRIJALVA, Mr. ROTHMAN of New Jersey, Ms. LEE of California, Mr. McDERMOTT, Mrs. CAPPS, Ms. DELAURO, Ms. NORTON, Mr. ENGEL, Ms. SCHAKOWSKY, Ms. HAHN, Mr. CONYERS, Mrs. LOWEY, Mrs. CHRISTENSEN, Ms. MOORE, Mr. FARR, Ms. CHU, Ms. RICHARDSON, Ms. MCCOLLUM, Mr. CROWLEY, Mr. PASCRELL, Mr. HINCHEY, Ms. BROWN of Florida, Mr. MORAN, Mr. ACKERMAN, Mr. BOSWELL, Mr. OLVER, Mr. BRADY of Pennsylvania, Mr. CLARKE of Michigan, Ms. WOOLSEY, Mr. LEWIS of Georgia, Ms. LINDA T. SÁNCHEZ of California, Mr. HONDA, Mr. TOWNS, Mr. DAVIS of Illinois, Mr. CARSON of Indiana, Mr. BERMAN, Ms. WATERS, Mr. JOHNSON of Georgia, Mr. KILDEE, Mr. MARKEY, Ms. MATSUI, Ms. TSONGAS, Ms. CLARKE of New York, Mr. HINOJOSA, Mr. CARNAHAN, Mr. SHERMAN, Ms. DEGETTE, Ms. SUTTON, Mr. LANGEVIN, Mr. BACA, Ms. PINGREE of Maine, Mr. SERRANO, Mr. ELLISON, Mr. KUCINICH, Ms. ESHOO, Mr. LARSEN of Washington, and Ms. SLAUGHTER) 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,*

3 **SECTION 1. SHORT TITLE.**

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

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

9 It shall be an unlawful employment practice for a cov-
10 ered entity to—

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

18 (2) deny employment opportunities to a job ap-
19 plicant or employee, if such denial is based on the
20 need of the covered entity to make reasonable ac-
21 commodated to the known limitations related to

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

3 (3) require a job applicant or employee affected
4 by pregnancy, childbirth, or related medical condi-
5 tions to accept an accommodation that such appli-
6 cant or employee chooses not to accept; or

7 (4) require an employee to take leave under any
8 leave law or policy of the covered entity if another
9 reasonable accommodation can be provided to the
10 known limitations related to the pregnancy, child-
11 birth, or related medical conditions of an employee.

12 **SEC. 3. REMEDIES AND ENFORCEMENT.**

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

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

1 employee described in section 5(2)(A), except as pro-
2 vided in paragraphs (2) and (3).

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

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

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

23 (1) IN GENERAL.—The powers, remedies, and
24 procedures provided in the Congressional Account-
25 ability Act of 1995 (2 U.S.C. 1301 et seq.) to the

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

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

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

8 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
9 3, UNITED STATES CODE.—

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

21 (2) COSTS AND FEES.—The powers, remedies,
22 and procedures provided in subsections (b) and (c)
23 of section 722 of the Revised Statutes of the United
24 States (42 U.S.C. 1988), shall be the powers, rem-
25 edies, and procedures this title provides to the Presi-

1 dent, the Commission, such Board, or any person,
2 alleging such a practice.

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

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

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

1 scribed in section 5(2)(D), except as provided in
2 paragraphs (2) and (3).

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

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

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

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

1 section shall be the powers, remedies, and proce-
2 dures this title provides to the Commission, the At-
3 torney General, the Librarian of Congress, or any
4 person, respectively, alleging an unlawful employ-
5 ment practice in violation of this title against an em-
6 ployee or applicant described in section 2(2)(E), ex-
7 cept as provided in paragraphs (2) and (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, reme-
12 dies, and procedures this title provides to the Com-
13 mission, the Attorney General, the Librarian of Con-
14 gress, or any person, alleging such a practice.

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

1 (f) PROHIBITION AGAINST RETALIATION.—No per-
2 son shall discriminate against any individual because such
3 individual has opposed any act or practice made unlawful
4 by this title or because such individual made a charge,
5 testified, assisted, or participated in any manner in an in-
6 vestigation, proceeding, or hearing under this title. The
7 remedies and procedures otherwise provided for under this
8 section shall be available to aggrieved individuals with re-
9 spect to violations of this subsection.

10 **SEC. 4. RULEMAKING.**

11 Not later than 2 years after the date of enactment
12 of this Act, the Commission shall issue regulations in an
13 accessible format in accordance with subchapter II of
14 chapter 5 of title 5, United States Code, to carry out this
15 Act. Such regulations shall identify some reasonable ac-
16 commodations addressing known limitations related to
17 pregnancy, childbirth, or related medical conditions that
18 shall be provided to a job applicant or employee affected
19 by such known limitations unless the covered entity can
20 demonstrate that doing so would impose an undue hard-
21 ship.

22 **SEC. 5. DEFINITIONS.**

23 As used in this Act—

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

1 (2) the term “covered entity”—

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

5 (B) includes—

6 (i) an employing office, as defined in
7 section 101 of the Congressional Account-
8 ability Act of 1995 (2 U.S.C. 1301) and
9 section 411(c) of title 3, United States
10 Code;

11 (ii) an entity employing a State em-
12 ployee described in section 304(a) of the
13 Government Employee Rights Act of 1991
14 (12 U.S.C. 1220(a)); and

15 (iii) an entity to which section 717(a)
16 of the Civil Rights Act of 1964 (42 U.S.C.
17 2000e–16(a)) applies;

18 (3) the term “employee” means—

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

22 (B) a covered employee (including an ap-
23 plicant), as defined in section 101 of the Con-
24 gressional Accountability Act of 1995 (2 U.S.C.
25 1301);

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

4 (D) a State employee (including an appli-
5 cant) described in section 304(a) of the Govern-
6 ment Employee Rights Act of 1991 (12 U.S.C.
7 1220(a)); or

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

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

14 (5) the terms “reasonable accommodation” and
15 “undue hardship” have the meanings given such
16 terms in section 101 of the Americans with Disabil-
17 ities Act of 1990 (42 U.S.C. 12111) and shall be
18 construed as such terms have been construed under
19 such Act and as set forth in the regulations required
20 by this Act.

21 **SEC. 6. RELATIONSHIP TO OTHER LAWS.**

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

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

○