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**Testimony of  
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**In SUPPORT of HB 523 – State Personnel – Employee Accommodations – Pregnancy and  
Childbirth  
Before the Maryland House Appropriations Committee**

**February 11, 2020**

Thank you for the opportunity to submit this testimony on behalf of the National Women's Law Center. The National Women's Law Center has been working since 1972 to secure and defend women's legal rights and opportunities, and to help women and families achieve economic security.

Pregnant workers should never be forced to choose between their health and their jobs, but under Maryland's current pregnancy accommodation law, too many pregnant workers can still find themselves denied the reasonable accommodations they need to continue to work and maintain a healthy pregnancy.

Maryland's current pregnancy accommodation law is at best ambiguous as to whether all pregnant workers with a need for a workplace accommodation are entitled to reasonable accommodations or only those workers who have limitations arising out of pregnancy *complications*. But a need for a temporary workplace accommodation can arise from a normally-progressing, healthy pregnancy; for example, the need to sit instead of stand during a long shift, to avoid exposure to toxic chemicals, or to avoid lifting heavy objects to ensure your pregnancy remains a healthy pregnancy. These pregnant workers also need the protections of these laws as they are too often forced off the job when they ask for simple, reasonable accommodations. And the failure to accommodate a healthy pregnancy can itself precipitate complications, putting the worker and her pregnancy at risk.

Under the current state law, pregnant employees are entitled to reasonable accommodations for “*disabilities* caused or contributed to by pregnancy or child birth.”<sup>1</sup> In 2017, the United States District Court for the District of Maryland specifically held that Maryland's pregnancy accommodation law “prohibit[s] discrimination on the basis of disability, but not pregnancy alone.”<sup>2</sup> The court went on to hold that even though the plaintiff, a veterinary assistant, “required help on a ‘case-by-case basis’ during the final three months of her pregnancy with certain of her responsibilities, including ‘performing x-rays, bending over, lifting large objects, and handling large animals,’” “these limitations alone fail[ed] to demonstrate that she suffered a “disability” with respect to her Maryland Fair Employment Practices Act . . . claim” and thus she was not protected under §20-609. Instead, the court held that she needed to show an “additional ‘pregnancy-related *impairment*’” (emphasis added) in order to get protection.

In order to ensure that all pregnant workers in Maryland who have a need for a reasonable accommodation receive one, it is critical that Maryland law make undeniably clear that all pregnant

workers with limitations due to pregnancy, childbirth, or related conditions are entitled to a reasonable accommodations, unless it would pose an undue hardship on the employer—not just those with pregnancy-related “disabilities.” Most of the states that have passed pregnancy accommodation laws in the last several years have required employers to provide reasonable accommodations for *conditions or limitations* related to pregnancy or childbirth.<sup>3</sup> There is no reason Maryland shouldn’t do the same.

HB 523 takes an important step towards ensuring that pregnant workers have the right to reasonable accommodations, regardless of whether they are experiencing a pregnancy complication or need an accommodation to ensure their pregnancy *remains* healthy. These protections should be available to Maryland employees regardless of whether they work in the public or private sector. We encourage the legislature to quickly work towards extending these protections to all Maryland workplaces.

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<sup>1</sup> Md. Code Ann., State Gov’t § 20-609 (West 2013).

<sup>2</sup> *Saah v. Thumel*, 2017 WL 491221, at \*1 (Feb. 7, 2017 D. Md.).

<sup>3</sup> See NAT’L. WOMEN’S LAW CTR., *Pregnancy Accommodations in the States* (September 2019), available at <https://nwlc.org/resources/pregnancy-accommodations-states/>.