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Patrick Moran - President

Testimony
HB 523 – State Personnel –
Employee Accommodations – Pregnancy and Childbirth
Support with Amendments

AFSCME Council 3 supports HB 523 with amendments. Currently, if a woman is suffering from a complication related to her pregnancy, the State is required to provide reasonable, temporary accommodations to ensure the employee's health. There is no such clear requirement that the State provide similar accommodations to a woman with a healthy pregnancy who requires accommodations to keep her baby healthy. Our members perform a wide array of functions for the state, in a variety of work settings. Regardless if pregnant employees work in our state offices, on our highways, or in our maximum-security institutions, they should all have appropriate access to reasonable accommodations to ensure a healthy pregnancy.

AFSCME proposes two amendments to this legislation (which are attached to this testimony) to address how any dispute and/or denial of an accommodation is to be challenged and resolved. In these situations, time is of the essence and any wrongful denial should be resolved prior to the baby being born. Accordingly, there should be resort to an independent authority quickly and we would like to see Maryland take steps similar to what the Minnesota and New York State legislatures have done recently to fast track pregnancy discrimination related issues. AFSCME also proposes oversight of the accommodations made under this section as an added measure of accountability. AFSCME's amendments thus propose the following:

1. Employee complaints under this section, rather than going through a lengthy grievance procedure, instead are sent to the Office of Fair Practices. The Office of Fair Practices first attempts to resolve the dispute informally by informing all parties of the provisions of the law. The Office of Fair Practices must then contact the appointing authority within two (2) business days of receipt and investigate the complaint, and within ten (10) days provide a response.
2. The Secretary shall collect information on reasonable accommodations requested under this section and provide a report at least annually to the Joint Committee on Fair Practices. Further, the Secretary shall maintain and make publicly available, without individually identifiable health information, a list of the accommodations sought and provided under this section.

While this legislation will impact relatively few employees proportionately, the well-documented staffing challenges in our State Government should serve as added motivation to pass legislation that promotes the retention of qualified and dedicated public employees.

Every AFSCME Maryland State and University contract guarantees a right to union representation.
An employee has the right to a union representative if requested by the employee.
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For all of these reasons, we urge the committee to adopt AFSCME's amendments and provide a favorable report on HB 523.

STATE PERSONNEL – EMPLOYEE ACCOMMODATIONS - PREGNANCY AND CHILDBIRTH

Proposed Amendments From AFSCME

I. Reporting of Accommodations (a new SPP 2-302(f))

(f) the secretary shall collect information on temporary reasonable accommodations to employees for limitations arising from or caused by pregnancy or childbirth and shall:

(1) at least annually report to the joint committee on fair practices and state personnel oversight; and

(2) maintain and make publicly available, without individually identifiable health information, a list of each accommodation sought and provided and summary information regarding the accommodation.

II. Timing for Investigations

Investigation. The office of fair practices shall receive complaints of employees relating to requests for accommodations under this section and shall investigate informally whether the accommodation was wrongfully denied. The office of fair practices shall attempt to resolve employee complaints by informing all parties of the provisions of the law and directing the unit to comply with the law. The office of fair practices must contact the reporting authority within two business days and investigate the complaint, and provide a response, within ten days of receipt of the complaint.