



October 8, 2023

**BY ELECTRONIC SUBMISSION**

Equal Employment Opportunity Commission

Re: Request for Public Comment Concerning Proposed Regulations To Implement the Pregnant Workers Fairness Act; RIN 3046-AB30.

Dear Sir or Madam:

The Ethics & Religious Liberty Commission (ERLC) of the Southern Baptist Convention (SBC) respectfully submits the following comments regarding our concerns with the proposed “Regulations To Implement the Pregnant Workers Fairness Act.”

The ERLC is the public policy and ethics entity of the SBC, which has nearly 14 million members in over 50,000 churches in the United States. We are charged by the SBC with addressing public policy affecting such issues as religious liberty, marriage and family, the sanctity of human life, and human dignity.

The ERLC has advocated for the protection of women and their preborn children for decades, and it remains an issue of great concern for millions of Southern Baptists. Defending the inherent dignity of every human life, including the life of preborn children and their mothers, is a foremost concern for Southern Baptists.

The Equal Employment Opportunity Commission’s proposed regulation for the newly passed Pregnant Workers Fairness Act (PWFA) deeply worries Southern Baptists, as it includes abortion procedures in the list of “pregnancy related medical conditions.”

**Every human being has inherent dignity and every life should be protected.**

God has spoken clearly throughout Scripture to the value and dignity of every human being as created in the image of God and to the goodness of his design for every aspect of human life in accordance with his will (Gen. 1:26-30; Matt. 19:4; Luke 12:22–31; 2 Cor. 5:17-21; 1 Pet. 1:13-16). Every life matters because every life is created in the image of God.

In the context of the PWFA, Scripture makes it clear that mothers and children are precious and worthy of protection. This conviction leads us to affirm the objective of legislation like the



PWFA that ensures women are given the accommodations they need to help provide for their families while taking care of their health and their preborn children.

However, these convictions also lead us to have grave concerns about the Commission's inclusion of abortion in its list of "pregnancy related medical conditions" in the proposed regulation. Abortion takes the life of an innocent child, and thus should never be sanctioned, promoted or protected by anyone, especially by a government whose founding documents enshrine this right to life.

**The Pregnant Worker's Fairness Act ensures reasonable accommodations for women during pregnancy, childbirth or related medical conditions, which does not include abortion.**

The Act was designed to help pregnant women stay in the workforce while also ensuring they had the healthiest pregnancy possible. The Act requires covered employers to provide "reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship."<sup>1</sup> The EEOC itself makes clear that these accommodations are related to the health of the mother and child, giving the following examples of reasonable accommodations:

"the ability to sit or drink water; receive closer parking; have flexible hours; receive appropriately sized uniforms and safety apparel; receive additional break time to use the bathroom, eat, and rest; take leave or time off to recover from childbirth; and be excused from strenuous activities and/or activities that involve exposure to compounds not safe for pregnancy."<sup>2</sup>

It is clear that the goal of the PWFA was to help pregnant mothers have healthy pregnancies and babies, not to expand access to abortion. Abortion ends a pregnancy, takes the life of the child, and thus is the very antithesis of what the Act seeks to protect.

**The EEOC's inclusion of abortion in its list of pregnancy related medical conditions blatantly contradicts Congressional intent.**

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<sup>1</sup> Pregnant Workers Fairness Act, 117th Congress (2022). Section 102.

<sup>2</sup> U.S. Equal Employment Opportunity Commission, 2023. "What is the Pregnant Workers Fairness Act?", Subheading "5. What are some examples of reasonable accommodations for pregnant workers?" <https://www.eeoc.gov/wysk/what-you-should-know-about-pregnant-workers-fairness-act> . Date Accessed: October 6, 2023.



The Congressional record of the PWFA is crystal clear - this Act did not intend to expand abortion access.

The bill's Democratic co-sponsor, Senator Bob Casey, stated: "The Pregnant Workers Fairness Act is a very straightforward piece of legislation; it closes a loophole in the 1978 Pregnancy Discrimination Act to allow pregnant workers to request reasonable accommodations so that they can continue working safely during pregnancy and upon returning to work after childbirth."

He added that the Act would be "a commonsense bill that would provide pregnant workers with reasonable accommodations so they can maintain healthy pregnancies while continuing to work."<sup>3</sup> He stressed that it was to "maintain" healthy pregnancies – not end them.

On the Senate Floor, Senator Casey later added, "I want to say for the record, however, that under the act, under the Pregnant Workers Fairness Act, the Equal Opportunity Employment Commission, the EEOC, could not--could not--issue any regulation that requires abortion leave, nor does the act permit the EEOC to require employers to provide abortions in violation of State law."<sup>4</sup>

Democratic Senator Patty Murray commented:

"I am here today because no one should have to choose between their job and a healthy pregnancy. It is outrageous that pregnant women in our country have been pushed out of their jobs by their employers because they asked for an additional bathroom break, because their doctors say they need to avoid heavy lifting, or because their employer can't be bothered to provide a stool so they can sit down."<sup>5</sup>

Democratic Representative Ed Perlmutter declared in the Congressional record that the PWFA is "necessary to support the more than 80 percent of women who will give birth to a child at some point during their working years. These women deserve to have reasonable accommodations, which oftentimes cost businesses little to no money to implement. So we can help pregnant women stay in the workforce."<sup>6</sup>

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<sup>3</sup> Robert P. Casey (PA). "Pregnant Workers Fairness Act." *Congressional Record* Vol. 168, No. 200 (2022) p. S10081-S10082.

<sup>4</sup> Robert P. Casey (PA). "Unanimous Consent Request--S. 4431--Continued (Executive Calendar)." *Congressional Record* Vol. 168, No. 191 (2022) p. S7049-S7052.

<sup>5</sup> Patty L. Murray (WA). "Unanimous Consent Request--S. 4431--Continued (Executive Calendar)." *Congressional Record* Vol. 168, No. 191 (2022) p. S7049-S7052.

<sup>6</sup> Edwin G. Perlmutter (CO). "Providing for Consideration of H.R. 2547, Comprehensive Debt Collection Improvement Act; Providing for Consideration of H.R. 1065, Pregnant Workers Fairness Act; And for Other Purposes." *Congressional Record* Vol. 167, No. 82 (2022) p. H2226-H2235.



Republican Senator Steve Daines explained:

“I want to make clear for the record that the terms “pregnancy” and “related medical conditions,” for which accommodations to their known limitations are required under the legislation, do not include abortion. . . . This legislation should not be misconstrued by the EEOC or Federal courts to impose abortion-related mandates on employers, or otherwise to promote abortions, contrary to the intent of Congress.”<sup>7</sup>

All of these statements were spoken from the floor of Congress, into the record, to ensure there was no ambiguity as to the scope and intent of the legislation.

Following the publication of this proposed regulation by the EEOC, Senator Bill Cassidy, the primary Republican cosponsor of the PWFA, issued a statement saying, “These regulations completely disregard legislative intent and attempt to rewrite the law by regulation. . . . The decision to disregard the legislative process to inject a political abortion agenda is illegal and deeply concerning.”<sup>8</sup>

The Congressional record is unequivocal. The PWFA was passed to ensure pregnant women and mothers of infants are protected in the workplace, not to expand their access to abortion.

**The EEOC’s inclusion of abortion protections in the PWFA is patently at odds with its own express goal of increasing “equity, human dignity and fairness.”**

The EEOC asserts that these regulations provide “unquantifiable benefits of improved maternal and infant health; improved economic security for pregnant workers; increased equity, *human dignity*, and *fairness*; improved clarity of enforcement standards; and efficiencies in litigation.”<sup>9</sup>

And yet, its construction of this regulation flies in the face of both human dignity and fairness. It degrades the value of human life by holding up abortion and fairness by blatantly disregarding the express wishes of Congress.

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<sup>7</sup> Steven D. Daines (MT). “Pregnant Workers Fairness Act.” *Congressional Record* Vol. 168, No. 200 (2022) p. S10081.

<sup>8</sup> William M. Cassidy (LA), August 8, 2023. “Ranking Member Cassidy Blasts Biden Administration for Illegally Injecting Abortion Politics into Enforcement of Bipartisan PWFA Law.”

<https://www.cassidy.senate.gov/newsroom/press-releases/ranking-member-cassidy-blasts-biden-administration-for-illegally-injecting-abortion-politics-into-enforcement-of-bipartisan-pwfa-law> Date Accessed: October 6, 2023.

<sup>9</sup> “Regulations To Implement the Pregnant Workers Fairness Act.” Citation 88 Federal Regulation 54714 at 54750, subheading “II. Summary” (emphasis added). Date Accessed: October 6, 2023.



Such a step would abandon all reverence for life and the rule of law enshrined in our *Declaration of Independence* and the *U.S. Constitution*.

The PWFA was bipartisan legislation that passed in order to help women protect preborn life and safely deliver new lives into the world. This regulation attempts to unlawfully rewrite the law through regulation to destroy new life.

**After reviewing the Commission's regulation, the ERLC urges the Commission to drop abortion from its list of pregnancy related medical conditions.**

Thank you for the opportunity to comment.

Respectfully submitted,

Fredrick Brent Leatherwood  
President  
Ethics & Religious Liberty Commission  
of the Southern Baptist Convention