



NEW YORK STATE SENATOR

Dean G. Skelos

## SENATE PASSES BILL TO END PREGNANCY DISCRIMINATION IN THE WORKPLACE: Legislation Requires Reasonable Accommodations For Pregnant Employees

DEAN G. SKELOS June 12, 2014

The New York State Senate unanimously passed legislation today, sponsored by Senator Kemp Hannon (R-C-I, Garden City), Chairman of the Senate Health Committee, that would require employers to provide reasonable accommodations to employees with pregnancy-related medical conditions.

“Pregnant women are often forced to choose between their health and their jobs when both could be maintained with modest adjustments,” Senator Hannon said. “For someone who is a retail clerk, being asked to work four-to eight-hour shifts without being given a stool is something that should not be allowed to continue. Other examples would be a fast food restaurant worker who is denied permission to take a break during her shift for water or eating. These are the types of accommodations that should be done to make sure that there is an appropriate working environment in New York State.”

Senate Majority Co-Leader Dean G. Skelos said, “The Senate took action today on two bills designed to further protect and enhance women's rights in the Empire State, including legislation to stop pregnancy discrimination and to help put an end to the despicable practice of human trafficking. These bills are key provisions of the New York State Senate Women's Equality Agenda, a series of measures that will empower women and break down barriers that perpetuate violence, discrimination and inequality based on gender. I urge the

Assembly to pass both of these bills immediately.”

Senator Hannon’s bill ([S5880](#)) would require employers to perform a reasonable accommodation analysis for employees with conditions related to pregnancy and childbirth. A pregnancy-related condition would be treated as a temporary disability. Additionally, it would codify in law a regulation that an employee must provide medical or other information to verify the existence of the condition. The reasonable accommodation would not have to be granted if it imposed an undue hardship on an employer.

Some pregnant workers require modest adjustments on the job for conditions related to pregnancy and childbirth in order to stay healthy and keep working. Employees may require a stool to sit on, extra restroom breaks, a transfer away from hazardous duties, a temporary reprieve from heavy lifting, or a reasonable time for childbirth recovery.

Dina Bakst, Co-Founder & Co-President of A Better Balance, an organization that advocates for flexible workplace policies for employees who are pregnant or provide care for family members, said: "A Better Balance applauds the New York State Senate for passing S5880, Reasonable Accommodations for Pregnant Workers, with special thanks to Senator Kemp Hannon for championing the issue along with Assemblywoman Aileen Gunther. This legislation will end a common, but often overlooked form of workplace discrimination that jeopardizes the health and economic security of New York women, especially those with the fewest resources. We encourage the Assembly to take swift action on this bill to ensure that no pregnant worker in the Empire State is forced to choose between her job and a healthy pregnancy."

Donna Montalto, MPP, Executive Director of The American Congress of Obstetricians and

Gynecologists (ACOG) DII, said: “Minor job modifications for pregnant women are a necessity in the workplace. At some point in their pregnancies, women—especially those in physically strenuous jobs—may face a conflict between their duties at work and the demands of pregnancy. Pregnancy-related adjustments can allow women to work longer and promote family economic security. ACOG DII applauds the entire Senate for passing Senate Bill S.5880 and urges the Assembly to take up this legislation before the end of the legislative session.”

Sonia Ossorio, President of the National Organization for Women, NYC, said: “We join in thanking Senator Hannon for championing this important piece of legislation that goes a long way in providing fair treatment in the workplace for pregnant workers. Many of the women this legislation will help are low-wage workers who can't afford to lose their job. Many of the women we see in the Service Fund of NOW-NYC's Legal Clinics are forced into unpaid leave, fired or worse, faced with having to risk their pregnancy and health. We thank the Senate leadership for bringing it to the floor for a vote and we look to the Assembly leadership to do the same. Taking up this legislation is an important reproductive justice issue. Women shouldn't have to choose between their job and a healthy pregnancy. Considering 75 percent of women entering the workforce will become pregnant at least once while employed, this legislation has the ability to affect the majority of all working women and that is something the full legislature should be able to agree on and move swiftly to enact.”

Frank DeMeo, State Director of the New York Chapter of the March of Dimes, said: “One out of every two moms works during pregnancy and returns to work after her baby is born. Requiring employers to make reasonable accommodations for pregnancy-related conditions will help working mothers to reach 39 weeks – time their babies need to fully develop. Since

employers in the United States are billed over \$12 billion annually on claims related to prematurity and complicated births, helping moms to have healthy pregnancies and healthy babies is smart business and smart policy.”

While the Division of Human Rights has interpreted the gender and disability protections of the Human Rights Law to encompass pregnancy-related conditions, recent court decisions have resulted in confusion as to the availability and extent of this protection.

In order to protect the rights of pregnant workers, this bill would create a specific protection in the Human Rights Law requiring employers to provide a reasonable accommodation for pregnancy-related conditions, unless doing so would create an undue hardship.

This bill was also passed in 2013 as part of the Senate’s Women’s Equality Agenda.

The bill was sent to the Assembly.