115TH CONGRESS  
1ST SESSION  

S. 1101

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 SENATE OF THE UNITED STATES

MAY 11, 2017

Mr. CASEY (for himself, Mr. HELLER, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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”.

SEC. 2. NONDISCRIMINATION WITH REGARD TO REASONABLE ACCOMMODATIONS RELATED TO PREGNANCY.

It shall be an unlawful employment practice for a covered entity to—

(1) not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a job applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;

(2) deny employment opportunities to a job applicant or employee, if such denial is based on the need of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of an employee or applicant;

(3) require a job applicant or employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation that such applicant or employee chooses not to accept, if such accommodation is unnecessary to enable the applicant or employee to perform her job;

(4) require an employee to take leave, whether paid or unpaid, if another reasonable accommodation
can be provided to the known limitations related to
the pregnancy, childbirth, or related medical condi-
tions of an employee; or

(5) take adverse action in terms, conditions, or
privileges of employment against an employee on ac-
count of the employee requesting or using a reason-
able accommodation to the known limitations related
to the pregnancy, childbirth, or related medical con-
ditions of the employee.

SEC. 3. REMEDIES AND ENFORCEMENT.

(a) Employees Covered by Title VII of the
Civil Rights Act of 1964.—

(1) In general.—The powers, procedures, and
remedies provided in sections 705, 706, 707, 709,
710, and 711 of the Civil Rights Act of 1964 (42
U.S.C. 2000e–4 et seq.) to the Commission, the At-
torney General, or any person, alleging a violation of
title VII of that Act (42 U.S.C. 2000e et seq.) shall
be the powers, procedures, and remedies this Act
provides to the Commission, the Attorney General,
or any person, respectively, alleging an unlawful em-
ployment practice in violation of this Act against an
employee described in section 5(3)(A), except as pro-
vided in paragraphs (2) and (3).
(2) Costs and Fees.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be the powers, remedies, and procedures this Act provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) Damages.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this Act provides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(b) Employees Covered by Congressional Accountability Act of 1995.—

(1) In General.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of
section 201(a)(1) of that Act (2 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this Act provides to that Board, or any person, alleging an unlawful employment practice in violation of this Act against an employee described in section 5(3)(B), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), shall be the powers, remedies, and procedures this Act provides to that Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this Act provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

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

(c) Employees Covered by Chapter 5 of Title 3, United States Code.—

(1) In general.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this Act provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this Act against an employee described in section 5(3)(C), except as provided in paragraphs (2) and (3).

(2) Costs and fees.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988) shall be the powers, remedies, and procedures this Act provides to the President, the Commission, such Board, or any person, alleging such a practice.
(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this Act provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(d) EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b; 2000e–16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers, remedies, and procedures this Act provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this Act against an employee described in section 5(3)(D), except as provided in paragraphs (2) and (3).
(2) **Costs and Fees.**—The powers, remedies, and procedures provided in subsections (b) and (e) of section 722 of the Revised Statutes of the United States (42 U.S.C. 1988) shall be the powers, remedies, and procedures this Act provides to the Commission, or any person, alleging such a practice.

(3) **Damages.**—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes of the United States (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be the powers, remedies, and procedures this Act provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes of the United States).

(e) **Employees Covered by Section 717 of the Civil Rights Act of 1964.**—

(1) **In General.**—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this Act provides to the Commission, the At-
to the Attorney General, the Librarian of Congress, or any
person, respectively, alleging an unlawful employ-
ment practice in violation of this Act against an em-
ployee or applicant described in section 5(3)(E), ex-
cept as provided in paragraphs (2) and (3).

(2) Costs and Fees.—The powers, remedies,
and procedures provided in subsections (b) and (c)
of section 722 of the Revised Statutes of the United
States (42 U.S.C. 1988) shall be the powers, rem-
edies, and procedures this Act provides to the Com-
mission, the Attorney General, the Librarian of Con-
gress, or any person, alleging such a practice.

(3) Damages.—The powers, remedies, and pro-
dedures provided in section 1977A of the Revised
Statutes of the United States (42 U.S.C. 1981a), in-
cluding the limitations contained in subsection (b)(3)
of such section 1977A, shall be the powers, rem-
edies, and procedures this Act provides to the Com-
mission, the Attorney General, the Librarian of Con-
gress, or any person, alleging such a practice (not an
employment practice specifically excluded from cov-
erage under section 1977A(a)(1) of the Revised
Statutes of the United States).

(f) Prohibition Against Retaliation.—
(1) IN GENERAL.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(2) PROHIBITION AGAINST COERCION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual having exercised or enjoyed, or on account of such individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(3) REMEDY.—The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

SEC. 4. RULEMAKING.
Not later than 2 years after the date of enactment of this Act, the Commission shall issue regulations in an accessible format in accordance with subchapter II of chapter 5 of title 5, United States Code, to carry out this Act. Such regulations shall provide examples of reasonable accommodations addressing known limitations related to
pregnancy, childbirth, or related medical conditions that
shall be provided to a job applicant or employee affected
by such known limitations unless the covered entity can
demonstrate that doing so would impose an undue hard-
ship.

SEC. 5. DEFINITIONS.

As used in this Act—

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

(2) the term “covered entity”—

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

(B) includes—

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

(ii) an entity employing a State em-
ployee described in section 304(a) of the
Government Employee Rights Act of 1991
(42 U.S.C. 2000e–16e(a)); and
(iii) an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies;

(3) the term “employee” means—

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

(B) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(C) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code;

(D) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a)); or

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

(4) the term “person” has the meaning given such term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)); and
(5) the terms “reasonable accommodation” and “undue hardship” have the meanings given such terms in section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111) and shall be construed as such terms have been construed under such Act and as set forth in the regulations required by this Act, including with regard to the interactive process that will typically be used to determine an appropriate reasonable accommodation.

SEC. 6. WAIVER OF STATE IMMUNITY.

A State shall not be immune under the 11th Amendment to the Constitution of the United States from an action in a Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

SEC. 7. RELATIONSHIP TO OTHER LAWS.

Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protec-
1 tion for workers affected by pregnancy, childbirth, or re-
2 lated medical conditions.