Do Pregnant Women Have the Right to Work?
A History of the Pregnancy Discrimination Act of 1978
Rachel Jacob
Department of History, College of Liberal Arts and Sciences, Northern Illinois University

Abstract
This project is a history of the Pregnancy Discrimination Act of 1978 and its role in equal employment opportunity protections in the United States. Although Title VII of the Civil Rights Act of 1964 outlawed discrimination based on sex, many women continued to experience discrimination in hiring and on the job. A series of legal cases were filed between 1965 and 1978 that challenged employer discrimination against pregnant women in particular. Court victories and lobbying by women’s rights groups led Congress to take action in 1978 and pass the Pregnancy Discrimination Act.

The Pregnancy Discrimination Act created specific rights for pregnant women to guarantee equal and fair treatment in the workplace and in health insurance. This study utilizes court cases, government reports, media coverage, and the records of the Equal Employment Opportunity Commission and women’s rights organizations to reconstruct the history of the PDA. Despite the passage of the Pregnancy Discrimination Act, pregnancy discrimination is still in the headlines today as the U.S. Supreme Court decides Young v. United Parcel Service, and President Obama pushes for the passage of the Pregnant Workers’ Fairness Act.

What is Pregnancy Discrimination?
Under the Pregnancy Discrimination Act of 1978, discrimination on the basis of pregnancy is legally considered sex discrimination in the workplace. Pregnancy discrimination occurs when an employer discriminates against workers on the basis of pregnancy in hiring, firing, salary, job, training, fringe benefits, leave, health insurance, and layoff. If a woman is unable to work due to her pregnancy, employers by law must treat the employee as they would any other disabled worker. This also applies to impairments that may result from pregnancy, for which an employer must also provide reasonable accommodations.

How Did Civil Rights Law Treat Pregnant Women Before 1978?
Timeline of Legislation, Cases, & Activism
Civil Rights Act of 1964
Title VII was created to end workplace discrimination on the basis of race, color, religion, sex, and national origin.
1965 Equal Opportunity Commission (EEOC)
The EEOC was established to interpret and enforce federal laws prohibiting discrimination.
1974 Geduldig v. Aiello (U.S. Supreme Court Case)
The Supreme Court ruled that the exclusion of benefits for pregnancy-related disabilities was not discrimination.
1976 General Electric v. Gilbert (U.S. Supreme Court Case)
The Supreme Court ruled that under Title VII, pregnancy discrimination could not be considered sex discrimination.
1976 Campaign to End Discrimination Against Pregnant Workers
After the decision in Gilbert, a group of women attorneys and activists formed a campaign to demand legislation to protect pregnant workers. They won support from both Republicans and Democrats in Congress.

Why and How Was the Pregnancy Discrimination Act Passed in 1978?
Legislative History of the Pregnancy Discrimination Act
On March 15th, 1977, the Senate began drafting the Pregnancy Discrimination Act. At hearings on the bill, witnesses testified that the decision in General Electric v. Gilbert was a setback to women’s rights. Insurance companies and business groups spoke against the bill, arguing that it would increase the cost of insurance for both employees and employers.

Legislators compromised with opposing parties over the issue of abortion by adding a new subsection to the bill stating that the PDA is not applicable to women who have had abortions, unless needed to save the mother’s life. With this addition, the PDA passed in Congress and was signed by President Jimmy Carter on October 31st, 1978.

What Challenges Remain?
Pregnant Workers’ Fairness Act Proposed
With pregnancy discrimination cases on the rise, the PWFA would ensure that pregnant workers would not be forced out of their jobs or denied accommodations to continue to work and support their families.

How Has Protection for Pregnant Workers Developed Since 1978?
In 1991, the U.S. Supreme Court held in International Union v. Johnson Controls that policies implemented to ban pregnant workers from hazardous work environments can be deemed sex discrimination.

The Family Medical Leave Act of 1993 established that both female and male employees can take unpaid leave to be with their families for pregnancy and childbirth.

Since the 1990s, there has been an increase in the amount of pregnancy discrimination cases. In 2006, a United Parcel Services driver, Peggy Young, was forced to take an unpaid leave due to the company’s refusal to make accommodations for her pregnancy-related disabilities. Young filed a claim that her PDA rights had been violated, and her case went to the Supreme Court.

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Pregnancy discrimination changes filed with the EEOC and state agencies: FY 1982–FY 2006

A group of women marching for workplace rights in 1965.

“The Pregnancy Discrimination Act (PDA), passed in 1978, prohibits sex discrimination on the basis of pregnancy, childbirth, and other related medical conditions”

President Jimmy Carter at his desk in February of 1977.