

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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001. list	re: personal breastfeeding discrimination cases (6 pages)	04/16/2013	b(6)
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COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Ann O'Leary
OA/Box Number: 19577

FOLDER TITLE:

Breastfeeding in the Workplace

2013-0436-S

rc1238

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

OFFICE OF MANAGEMENT AND BUDGET**Legislative Reference Division
Labor-Welfare-Personnel Branch**TO: Ann O'LearyFROM: **Bennie Rogers**

Phone # : (202) 395- 7754

Fax # : (202) 395-6148

E-mail Address: Bennie_C._Rogers@omb.eop.gov

Number of Pages (including cover page): _____

Date: 2/23/00

Time: _____

Comments:

Fax - 4562878

Per your request, attached
is the 11/12/99 letter OMB
cleared to Rep. Maloney.

FT (to OMB 02/03/00)

The Honorable Carolyn B. Maloney
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Maloney:

This is in response to your request for views on H.R. __, the "Pregnancy Discrimination Act Amendments of 2000". The Administration supports this bill, which would clarify that the Pregnancy Discrimination Act of 1978 (PDA), 42 U.S.C. 2000e(k), 2000e notes (amending Title VII of the Civil Rights Act of 1964), prohibits the harassment and discrimination of women who breastfeed or express milk during their own lunch or break times at work. This clarification of the law would help workers to balance their work and family obligations, and ultimately would improve the health and well-being of children and their mothers. In addition, this clarification would serve the interests of judicial economy and efficiency by reducing the need for litigation over the coverage of the PDA.

This bill addresses an important workplace issue for new parents.

The significant health benefits that breastfeeding provides to children (and to their mothers) are numerous and well-documented. The American Academy of Pediatrics therefore recommends that mothers breastfeed for at least the first twelve months of a child's life, and that arrangements be made to provide expressed milk if mother and child must separate. The health benefits of breastfeeding in turn mean that working parents miss less time from work due to their baby's illness. Thus, support for nursing mothers makes good business sense for employers.

The Bureau of Labor Statistics' surveys of the characteristics of working families show that in 1998, 58 percent of mothers returned to the labor force before their babies were one year old. Because nursing mothers need to express their milk every three to four hours, working mothers must have one or more opportunities during an eight-hour work day to express milk in order to meet the goal of providing breast milk for their babies for a full year.

Although the Administration believes that the PDA's coverage of "pregnancy, childbirth, or related medical conditions", 42

J.S.C. 2000e(k), already encompasses breastfeeding or expressing milk, a number of courts have concluded that it does not. This bill would clarify that breastfeeding and expressing milk in the workplace are covered under the PDA. In so doing, the bill would reduce the need for costly litigation about the issue.

It should be noted that the bill is modest in scope. The bill would not require employers to give special breaks to these employees. Accordingly, an employer that has a policy of not giving any employees breaks during the workday would not be engaging in discriminatory conduct under the bill by denying a woman a break to breastfeed or express milk. Similarly, it would not be discriminatory for an employer to refuse to modify a woman's schedule to give her short split-shifts so as to effectively provide her breaks, or to discipline a woman who, in order to express milk, takes a longer break than company policy allows. And, of course, like Title VII and the PDA, the bill would not apply to employers that employ fewer than fifteen individuals.

As we noted to you previously, the Administration has been working to enhance opportunities for women to express their milk in the workplace in a safe, private, and healthful environment. On May 24, 1999, the President announced his support for providing Federal employees with on-site nursing mothers' programs. The President directed Federal agencies, among other things, to appoint a "family-friendly work/life coordinator" whose duties include establishing and promoting on-site nursing mothers' programs. To date, the Departments of Labor, Agriculture, State, and Transportation, as well as the U.S. Office of Personnel Management, the U.S. General Accounting Office, and the National Security Agency, have all implemented some form of nursing mothers' program.

In addition, the Office of Personnel Management's Family-Friendly Workplace Advocacy Office issued a publication in Spring, 1999 that provides practical information to Federal agencies about establishing a worksite nursing mothers' program. This publication, entitled "Establishing A Nursing Mothers Program -- A Guide for the Federal Workplace", also contains a comprehensive listing of organizations that can provide additional information on breastfeeding issues.

We understand that some private sector employers also have established working mothers' programs in their workplaces.

You, as well as the Department of Labor's Women's Bureau Honor Roll Report, have identified a number of private sector employers that have established such programs. These employers go beyond merely not discriminating against working women who choose to care for their babies by breastfeeding or expressing milk -- they recognize the value to their companies of providing opportunities to their employees to do so.

The Department congratulates you on your efforts to clarify that the PDA prohibits the harassment and discrimination of women who breastfeed or express milk during their own lunch or break times at work. We look forward to continuing to work with you on our mutual goal -- to help working people to balance successfully their work and family responsibilities.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

Alexis M. Herman



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

January 28, 2000

MEMORANDUM

TO: Ben Rogers
Legislative Reference Division
Office of Management and Budget

FROM: William J. White, Jr., Acting Director *William J. White, Jr.*
Office of Communications and Legislative Affairs

SUBJECT: H.R. 1478, Pregnancy Discrimination Act Amendment

The Equal Employment Opportunity Commission has reviewed H.R. 1478, Pregnancy Discrimination Act Amendment, a bill which proposes to amend Title VII of the Civil Rights Act of 1964 (and the Pregnancy Discrimination Act (PDA), Section 701(k) of Title VII) to protect mothers who are breast-feeding or expressing milk.

While EEOC supports the intent of the proposed legislation, we have several concerns with the bill as presently drafted. First, any effort to open up Title VII, including the Pregnancy Discrimination Act, to amendment, must be very carefully considered. We strongly recommend careful review of available alternatives, including that of a free-standing bill, before endorsing this approach.

Second, we are concerned that such an amendment could be used to undercut arguments in the courts that the current formulation of the PDA prohibits discrimination against lactating mothers. We would note that virtually all amendments to Title VII which have been designed to counter judicial decisions have only been passed after Supreme Court cases have definitively ruled on the particular question at issue. In large part this has been in recognition of the fact that courts may well rely on such a legislative proposal for the proposition that Title VII does not provide the protection sought in the legislative proposal. In our view, there are thus substantial risks in invoking the legislative process while a legal question is still under consideration by the courts.

Finally, the protections provided under the PDA are limited. Under the PDA an employer is required to provide no greater protection to pregnant women than it provides to other employees. For example, if the employer's policy restricts light duty jobs to individuals who were injured on the job, it would have no obligation to provide light duty jobs to pregnant women. Likewise, an employer would not be required to provide frequent breaks to women who wished to express milk unless that employer provided frequent breaks to its non-pregnant employees. Thus, we believe that the limited protections of the PDA counsel a very careful assessment of the costs and benefits involved in such a legislative proposal.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 10, 2000

MEMORANDUM

TO: Bennie C. Rogers
Legislative Reference Division
Office of Management and Budget

FROM: William J. White, Jr., Acting Director *William J. White, Jr.*
Office of Communications and Legislative Affairs

SUBJECT: Request for Comments on Labor Department Report on Proposed "Pregnancy Discrimination Act Amendments of 2000"

The Labor Department proposes to submit a letter in support of legislation to be introduced by Representative Carolyn Maloney to amend the Pregnancy Discrimination Act (PDA) to include a protection for lactating women. This bill differs only in insignificant respects from Representative Maloney's prior proposal on this subject, H.R. 1478. In particular, while the earlier version used the term "breastfeeding" the new version refers to "lactation." There is no substantive difference and the change would not affect the operative legal or policy analysis. By this memo, EEOC is raising significant concerns about the Department of Labor's proposed transmission.

As we stated in our January 28 memorandum in connection with the earlier proposal (copy attached), EEOC is fully supportive of the underlying policy goal of providing protections for breastfeeding (or lactating) mothers. Rather, our concern is based on the real risks that these proposals pose to the Pregnancy Discrimination Act and our view that they may not carry sufficient offsetting benefits to justify these risks. We are particularly concerned about the Department of Labor's suggestion that the proposed "clarification [of the law] would serve the interests of judicial economy and efficiency by reducing the need for litigation over the coverage of the PDA." To the contrary, for the reasons stated in our January 28 memorandum, the proposed legislation carries a very substantial risk of undermining currently available arguments that the PDA provides precisely the protections sought by the legislation. A review of the caselaw (and the analysis provided by Rep. Maloney's office) shows not even a handful of cases that have been brought seeking the sort of protections for lactating women that this legislation would provide. There is certainly no established rule that would preclude further litigation on this subject. Indeed, because the legal protections under the proposal would be fairly narrow but

Page Two

not completely clear, we would expect significant litigation over their scope. In our judgment, clearer, free-standing legislation which is not pegged to the PDA would do a better job of clarifying the law and providing meaningful protections to breastfeeding mothers.

Attachment



ELLEN VARGYAS <Ellen.Vargyas@EEOC.GOV>

02/24/2000 03:14:06 PM

Record Type: Record

To: Ann O'Leary/OPD/EOP

cc:

Subject: Fwd: court cases related to PDA and breastfeeding

Received: from orion.house.gov ([143.231.86.7]) by EEOC.GOV; Mon, 07 Feb 2000 17:11:43 -0500
Received: from hrmims01.HOUSE.GOV (hrmims01.house.gov [143.231.32.157]) by orion.house.gov (8.9.1b+Sun/8.9.1) with ESMTP id RAA29973 for <ellen.vargyas@eeoc.gov>; Mon, 7 Feb 2000 17:09:30 -0500 (EST)

Received: by hrmims01.house.gov with Internet Mail Service (5.5.2650.21) id <1D37A40F>; Mon, 7 Feb 2000 17:15:40 -0500

Date: Mon, 7 Feb 2000 17:15:37 -0500

From: "Sullivan, Megan" <Megan.Sullivan@mail.house.gov>

Subject: court cases related to PDA and breastfeeding

To: "ellen.vargyas@eeoc.gov" <ellen.vargyas@eeoc.gov>

Message-id: <AD3CC6482AA0D211A7FB0008C7A4BBC30385A0AE@hrm04.house.gov>

MIME-version: 1.0

X-Mailer: Internet Mail Service (5.5.2650.21)

Content-type: multipart/mixed; boundary="Boundary_(ID_kTEaS/SY/991n/8jFpKFbQ)"

Ellen-please find the attached document summarizing legal cases concerning the Pregnancy Discrimination Act. Thanks, M

<<Lactcase.wpd>>

M. Megan Sullivan

Legislative Fellow

Office of U.S. Rep. Carolyn Maloney

2430 Rayburn Building

Washington, DC 20515

202-225-7944 fax: 202-225-4709

megan.sullivan@mail.house.gov



- Lactcase.wpd

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Clinton Library

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001. list	re: personal breastfeeding discrimination cases (6 pages)	04/16/2013	b(6)

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2013-0436-S

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RR. Document will be reviewed upon request.

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Final

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

NOV 12 1999

The Honorable Carolyn B. Maloney
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Maloney:

This is in response to your letter concerning the harassment and discrimination many women have experienced when they breastfeed or express milk during their lunch or break times at work. The Administration supports the goals of your proposals, which would protect breastfeeding mothers and enhance opportunities for women to express their milk in the workplace. As you know, the Administration's FY 2000 budget included many proposals to help working families and small businesses.

The Administration has already begun working on this important issue. Earlier this year, the President announced his support for providing Federal employees with on-site nursing mothers' programs. In his May 24, 1999, Executive Memorandum to Executive Agencies, the President directed Federal agencies, among other things, to appoint a "family-friendly work/life coordinator" to serve as a member of an Interagency Family Friendly Workplace Working Group. These coordinators are responsible for "making sure that Federal employees are aware of the full range of options available to them to meet their personal and family responsibilities" Among their duties, coordinators are specifically responsible for establishing and promoting on-site nursing mothers' programs. To date, the Departments of Labor, Agriculture, State, Transportation, the U.S. Office of Personnel Management, the U.S. General Accounting Office, and the National Security Agency have all implemented some form of nursing mothers' program.

In addition, the Office of Personnel Management recently issued "Establishing A Nursing Mothers Program -- A Guide for the Federal Workplace." The publication provides agencies with practical information on how to establish a worksite nursing mothers' program and contains a comprehensive listing of web sites on work and family and child care resources at <<http://www.opm.gov/wrkfam>>.

As you continue to work on these important issues, I would encourage you to consult other affected agencies, such as the Departments of the Treasury and Health and Human Services, and the Equal Employment Opportunity Commission, the General Services Administration, and the Office of Personnel Management.

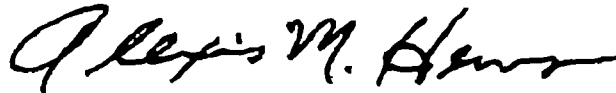
WORKING FOR AMERICA'S WORKFORCE

The Department of Labor would like to work with you on a few drafting issues on H.R. 1478 ("Pregnancy Discrimination Act Amendments of 1999"). In addition, we understand that language similar to H.R. 1848 ("Right to Breastfeed Act") has been enacted in the FY 2000 Treasury, Postal Service, and General Government Appropriations Act (Section 647 of P.L. 106-58). Finally, we understand that H.R. 1163 ("Breastfeeding Promotion and Employers' Tax Incentive Act") would reduce receipts and therefore, at a minimum, needs to be amended to include an offset for the PAYGO costs.

The Department congratulates you for your efforts to address this issue and looks forward to working with you on our mutual goal -- to help working people balance work and family.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,



Alexis M. Herman

66620

 Mary L. Smith
02/19/2000 07:19:40 PM

Record Type: Record

To: Ann O'Leary/OPD/EOP@EOP, Ruby Shamir/OPD/EOP@EOP
cc:
Subject: Re: EEOC has several concerns with H.R. 1478, the Pregnancy Discrimination Act Amendment

Didn't know if you all have seen this --

----- Forwarded by Mary L. Smith/OPD/EOP on 02/19/2000 07:19 PM -----

Bennie C. Rogers

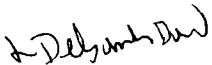
02/18/2000 11:08:27 AM

Record Type: Record

To: Mary L. Smith/OPD/EOP@EOP, Edward W. Correia/WHO/EOP@EOP
cc: Angela Blake/WHO/EOP@EOP, Robert J. Pellicci/OMB/EOP@EOP, Lisa M. Kountoupes/WHO/EOP@EOP, Ann O'Leary/OPD/EOP@EOP
bcc:
Subject: Re: EEOC has several concerns with H.R. 1478, the Pregnancy Discrimination Act Amendment 

Susan Carr suggested that you may want to comment on this issue. Of particular interest is whether you feel that this proposal (H.R. 1478) is worth opening up Title VII to amendment. Please let me know by 10:00 AM, Tuesday, February 22nd, if you have a comment on this issue. Thanks. [The original LRM was sent to you by fax, if you do not have a copy, please let me know. --Ben]

Bennie C. Rogers



Bennie C. Rogers

02/17/2000 04:34:53 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Robert J. Pellicci/OMB/EOP@EOP
Subject: EEOC has several concerns with H.R. 1478, the Pregnancy Discrimination Act Amendment

EEOC has several concerns with H.R. 1478, the Pregnancy Discrimination Act

Amendment. I am forwarding the substantive portions of their comments below. Please review the EEOC comments and let me know by NOON, tomorrow, Friday, February 18th, if you agree with EEOC that we should not clear the letter at this time.

EEOC Comment of February 10, 2000:

"The Labor department proposes to submit a letter in support of legislation to be introduced by Representative Carolyn Maloney to amend the Pregnancy Discrimination Act (PDA) to include a protection for lactating women. This bill differs only in insignificant respects from Representative Maloney's prior proposal on this subject, H.R. 1478. In particular, while the earlier version used the term "breastfeeding" the new version refers to "lactation." There is no substantive difference and the change would not affect the operative legal or policy analysis. By this memo, EEOC is raising significant concerns about the department of Labor's proposed transmission.

As we stated in our January 28th memorandum in connection with the earlier proposal (copy attached), EEOC is fully supportive of the underlying policy goal of providing protections for breastfeeding (or lactating) mothers. Rather, our concern is based on the real risks that these proposals pose to the Pregnancy Discrimination Act and our view that they may not carry sufficient offsetting benefits to justify these risks. We are particularly concerned about the Department of Labor's suggestion that the proposed "clarification [of the law] would serve the interests of judicial economy and efficiency by reducing the need for litigation over the coverage of the PDA." To the contrary, for the reasons stated in our January 28 memorandum, the proposed legislation carries a very substantial risk of undermining currently available arguments that the PDA provides precisely the protections sought by the legislation. A review of the caselaw (and the analysis provided by Rep. Maloney's office) shows not even a handful of cases that have been brought seeking the sort of protections for lactating women that this legislation would provide. There is certainly no established rule that would preclude further litigation on this subject. Indeed, because the legal protections under the proposal would be fairly narrow but not completely clear, we would expect significant litigation over their scope. In our judgement, clearer, free-standing legislation which is not pegged to PDA would do a better job of clarifying the law and providing meaningful protections to breastfeeding mothers."

EEOC January 28th Comments:

"While EEOC supports the intent of the proposed legislation, we have several concerns with the bill as presently drafted. First, any effort to open up Title VII, including the Pregnancy Discrimination Act, to amendment, must be very carefully considered. We strongly recommend careful review of available alternatives, including that of a free standing bill, before endorsing this approach.

Second, we are concerned that such an amendment could be used to undercut arguments in the courts that the current formulation of PDA prohibits discrimination against lactating mothers. We would note that virtually all amendments to Title VII which have been designed to counter

judicial decisions have only been passed after Supreme Court cases have definitely ruled on the particular question at issue. In large part this has been in recognition of the fact that courts may well rely on such a legislative proposal for the proposition that title VII does not provide the protection sought in the legislative proposal. In our view, there are thus substantial risks in invoking the legislative process while a legal question is still under consideration by the courts.

Finally, the protections provided under PDA are limited. Under PDA an employer is required to provide no greater protection to pregnant women than it provides to other employees. For example, if the employer's policy restricts light duty jobs to individuals who were injured on the job, it would have no obligation to provide frequent breaks to women who wished to express milk unless that employer provided frequent breaks to other non-pregnant employees. Thus, we believe that the limited protections of the PDA counsel a very careful assessment of the costs and benefits involved in such a legislative proposal."

[NOTE: On November 11, 1999, Labor transmitted an OMB cleared letter to Congresswoman Maloney supporting the goals of H.R. 1478. In addition the letter stated that the Administration would like to work with Congress on a few drafting issues. The January 28th EEOC comment was submitted to OMB after OMB cleared the Labor letter.]

Message Sent To:

Andrea E. Jacobson/OMB/EOP@EOP
Susan M. Carr/OMB/EOP@EOP
Larry R. Matlack/OMB/EOP@EOP
Anna Richter/OPD/EOP@EOP
Lisa M. Kountoupes/WHO/EOP@EOP

EOP:

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Adrienne C. Erbach
Maria Echaveste
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Devorah R. Adler
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Thomas Reilly
Olga O. Garcia
Suzanne L. White
Steven D. Aitken
Brooke B. Livingston
Christopher C. Jennings
Marjorie Tarmey
James J. Jukes

SUBJECT: JUSTICE Testimony on S1673 Unborn Victims of Violence Act

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

(2) sending us a memo or letter

TO: Robert J. Pellicci Phone: 395-4871 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent To: _____

Sylvia M. Mathews/OMB/EOP@EOP
Adrienne C. Erbach/OMB/EOP@EOP
Maria Echaveste/WHO/EOP@EOP
Marjorie Tarmey/WHO/EOP@EOP
Daniel N. Mendelson/OMB/EOP@EOP
Christopher C. Jennings/OPD/EOP@EOP
Devorah R. Adler/OPD/EOP@EOP
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Mark E. Miller/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Olga O. Garcia/OMB/EOP@EOP
Suzanne L. White/OMB/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
Brooke B. Livingston/OMB/EOP@EOP

Nicole R. Rabner

09/27/99 06:04:39 PM

Record Type: Record

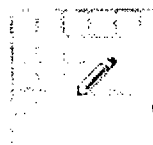
To: Ann O'Leary/OPD/EOP@EOP

cc:

Subject: LRM BCR24 - - LABOR Report on HR1478 Pregnancy Discrimination Act Amendments of 1999

Will you pls take a look at this -- more discrimination issues. . .

----- Forwarded by Nicole R. Rabner/WHO/EOP on 09/27/99 06:04 PM -----



Bennie C. Rogers
09/27/99 04:07:15 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: LRM BCR24 - - LABOR Report on HR1478 Pregnancy Discrimination Act Amendments of 1999

Following is LRM ID: BCR 24. Please read and respond by COB, Friday, October 1, 1999 to the Labor request for clearance of its letter to Congresswoman Maloney expressing general support for her three bill proposals, H.R. 1478, the "Pregnancy Discrimination Act Amendments of 1999," H.R. 1163, the "Breastfeeding Promotion and Employers' Tax Incentive Act," and H.R. 1848, the "Right to Breastfeed Act" (2 pages).

For your convenience, copies of all three referenced bills are attached (11 pages).



breastfeedingletter.wpd



hr1848.pdf



hr1478.pdf



hr1163.pdf

Agencies: Please contact me if you do not receive this e-mailed LRM in good working form. For your convenience, we will follow this e-mail by sending a copy by fax.

EOP Staff: You will not receive a paper copy of this LRM.

----- Forwarded by Bennie C. Rogers/OMB/EOP on 09/27/99 03:36 PM -----

LRM ID: BCR24

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Monday, September 27, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Bennie C. Rogers
PHONE: (202)395-7754 FAX: (202)395-6148

SUBJECT: **LABOR Report on HR1478 Pregnancy Discrimination Act Amendments of 1999**

DEADLINE: **COB Friday, October 1, 1999**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: Labor is requesting clearance of its letter to Congresswoman Maloney expressing general support for her three bill proposals, H.R. 1478, the "Pregnancy Discrimination Act Amendments of 1999," H.R. 1163, the "Breastfeeding Promotion and Employers' Tax Incentive Act," and H.R. 1848, the "Right to Breastfeed Act."

For your convenience, copies of all three referenced bills are attached.

DISTRIBUTION LIST

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118-TREASURY - Richard S. Carro - (202) 622-0650
92-Office of Personnel Management - Harry Wolf - (202) 606-1424
31-Equal Employment Opportunity Commission - William J. White Jr. - (202) 663-4900
51-General Services Administration - William R. Ratchford - (202) 501-0563
61-JUSTICE - Jon P. Jennings - (202) 514-2141
126-US Postal Service - Stanley F. Mires - (202) 268-2958
29-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760
107-Small Business Administration - Jane P. Merkin - (202) 205-6700

EOP:

Barry White
Larry R. Matlack
Bruce D. Long
Jack A. Smalligan
Lisa Zweig
Lisa B. Fairhall
Robert G. Damus
Alan B. Rhinesmith
Francis S. Redburn
Susan M. Carr

Joseph J. Minarik
Justine F. Rodriguez
David J. Haun
Julie L. Haas
Mary C. Barth
Nicole R. Rabner
Edward W. Correia
Kelley L. O'Dell
Melinda D. Haskins
Richard E. Green
Janet R. Forsgren
James J. Jukes

SUBJECT: LABOR Report on HR1478 Pregnancy Discrimination Act

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Bennie C. Rogers Phone: 395-7754 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages _____**

Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Message Sent To: _____

Barry White/OMB/EOP@EOP
Larry R. Matlack/OMB/EOP@EOP
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DRAFT8 (to OMB 9/24/99 5:15pm)

The Honorable Carolyn B. Maloney
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Maloney:

This is in response to your letter concerning the harassment and discrimination many women have experienced when they breastfeed or express milk during their lunch or break times at work. The Administration supports the goals of your proposals, which would protect breastfeeding mothers and enhance opportunities for women to express their milk in the workplace -- H.R. 1478, the "Pregnancy Discrimination Act Amendments of 1999"; H.R. 1163, the "Breastfeeding Promotion and Employers' Tax Incentive Act;" and H.R. 1848, the "Right to Breastfeed Act."

These proposed bills offer significant benefits for working parents and attempt to address the often overlooked needs of nursing mothers who are in the workforce. H.R. 1163 would serve as an important incentive to employers as women continue to enter the workforce. H.R. 1848 would ensure that the Federal Government, as a model employer, sets the standard for others to follow.

Although H.R. 1478 appears to complement the President's proposal on parenthood, we have some concerns about the bill language. In Section 2(1) of the bill, we recommend striking the words " 'breastfeeding,' after 'childbirth', and", and inserting in their place the words "' , including lactation,' after 'related medical conditions'". Section 2(2) should, then, focus not on "breastfeeding" but rather on "lactation" as a condition which may result in the feeding of a child directly from the breast or in the expressing of milk from the breast. In addition, we are concerned that the bill language is ambiguous regarding the scope of the protected activities; in contrast, the bill summary that you enclosed with your letter to me provides, with specificity, that a woman "cannot be fired or discriminated against in the workplace for expressing breast milk *during her own lunch time or break time.*" (Emphasis added.)

The Administration has already begun working on this important issue. Earlier this year, the President announced his support for providing Federal employees with on-site nursing mothers' programs. In his May 24, 1999, Executive Memorandum to Executive Agencies, the President directed Federal agencies, among other things, to appoint a "family-friendly work/life coordinator" to serve as a member of an Interagency Family Friendly Workplace Working Group. These coordinators are responsible for "making

sure that Federal employees are aware of the full range of options available to them to meet their personal and family responsibilities" Among their duties, coordinators are specifically responsible for establishing and promoting on-site nursing mothers' programs. To date, the Departments of Labor, Agriculture (Food and Nutrition Service), State, Transportation, the U.S. Office of Personnel Management, the U.S. General Accounting Office, and the National Security Agency have all implemented some form of nursing mothers' program.

In addition, the Office of Personnel Management recently issued "Establishing A Nursing Mothers Program -- A Guide for the Federal Workplace." The publication provides agencies with practical information on how to establish a worksite nursing mothers' program and contains a comprehensive listing of web sites on work and family and child care resources at <http://www.opm.gov/wrkfam>.

As you continue to work on these important issues, I would encourage you to consult other affected agencies. Because H.R. 1478 would expand the Civil Rights Act of 1964, the Equal Employment Opportunity Commission, the agency which would enforce the rights created by this bill, may have comments. Because H.R. 1163 would amend the Internal Revenue Code, the Department of the Treasury and the Office of Management and Budget may need to carefully study this bill to determine its monetary impact on businesses and upon the Budget. In addition, because H.R. 1848 would allow breastfeeding on any portion of "Federal property" where a mother and infant are authorized to be, the General Services Administration and other Federal agencies that lease Federal property may also have views regarding this bill. The Office of Personnel Management, which provides guidance and leadership regarding the lactation programs of Federal agencies, may also have comments on H.R. 1848.

I congratulate you for your efforts to bring this issue to the attention of the Nation and look forward to working with you in our mutual goal -- to help working people balance work and family.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Alexis M. Herman

106TH CONGRESS
1ST SESSION

H. R. 1848

To ensure a woman's right to breastfeed her child on any portion of Federal property where the woman and her child are otherwise authorized to be.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 1999

Mrs. MALONEY of New York (for herself, Mr. SHAYS, Ms. ROYBAL-ALLARD, Mrs. MORELLA, Ms. NORTON, and Mr. DOOLEY of California) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To ensure a woman's right to breastfeed her child on any portion of Federal property where the woman and her child are otherwise authorized to be.

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 "Right to Breastfeed
5 Act".

6 **SEC. 2. RIGHT TO BREASTFEED.**

7 Notwithstanding any other provision of law, a woman
8 may breastfeed her child on any portion of Federal prop-

1 erty where the woman and her child are otherwise author-
2 ized to be.

3 **SEC. 3. DEFINITIONS.**

4 In this Act, the term “Federal property” means any
5 building, land, or other real property owned, leased, or oc-
6 cupied by any department, agency, or instrumentality of
7 the United States (including the Department of Defense,
8 the United States Postal Service, and any establishment
9 in the legislative or judicial branches of the Government),
10 or any other instrumentality wholly owned by the United
11 States.

○

106TH CONGRESS
1ST SESSION

H. R. 1478

To amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1999

Mrs. MALONEY of New York introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers.

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 “Pregnancy Discrimina-
5 tion Act Amendments of 1999”.

6 **SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS**

7 **ACT OF 1964.**

8 Section 701(k) of the Civil Rights Act of 1964 (42
9 U.S.C. 2000e(k)) is amended—

1 (1) by inserting “breastfeeding,” after “child-
2 birth”, and

3 (2) by adding at the end the following: “For
4 purposes of this subsection, the term ‘breastfeeding’
5 means the feeding of a child directly from the breast
6 or the expression of milk from the breast by a lac-
7 tating woman.”.

○

106TH CONGRESS
1ST SESSION

H. R. 1163

To amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for expenses for providing an appropriate environment on the business premises for employed mothers to breastfeed or express milk for their children.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1999

Mrs. MALONEY of New York (for herself, Mrs. MORELLA, Mr. FRANK of Massachusetts, Mr. MORAN of Virginia, and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for expenses for providing an appropriate environment on the business premises for employed mothers to breastfeed or express milk for their children.

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 “Breastfeeding Pro-
5 motion and Employers’ Tax Incentive Act”.

1 **SEC. 2. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES**
2 **FOR PROVIDING APPROPRIATE ENVIRON-**
3 **MENT ON BUSINESS PREMISES FOR EM-**
4 **PLOYED MOTHERS TO BREASTFEED OR EX-**
5 **PRESS MILK FOR THEIR CHILDREN.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 of the Internal Revenue Code of
8 1986 (relating to business related credits) is amended by
9 adding at the end the following new section:

10 **“SEC. 45D. CREDIT FOR EMPLOYER EXPENSES INCURRED**
11 **TO FACILITATE EMPLOYED MOTHERS WHO**
12 **BREASTFEED OR EXPRESS MILK FOR THEIR**
13 **CHILDREN.**

14 “(a) IN GENERAL.—For purposes of section 38, the
15 breastfeeding promotion and support credit determined
16 under this section for the taxable year is an amount equal
17 to 50 percent of the qualified breastfeeding promotion and
18 support expenditures of the taxpayer for such taxable
19 year.

20 “(b) DOLLAR LIMITATION.—The credit allowable
21 under subsection (a) for any taxable year shall not exceed
22 the product of—

23 “(1) \$10,000, and

24 “(2) the number determined by dividing the av-
25 erage number of full-time employees of the taxpayer
26 during the preceding taxable year by 8,000.

1 “(c) QUALIFIED BREASTFEEDING PROMOTION AND
2 SUPPORT EXPENDITURE.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified
4 breastfeeding promotion and support expenditure’
5 means any amount paid or incurred in connection
6 with a trade or business of the taxpayer—

7 “(A) for breast pumps and other equip-
8 ment specially designed to assist mothers who
9 are employees of the taxpayer to breastfeed or
10 express milk for their children but only if such
11 pumps and equipment meet such standards (if
12 any) prescribed by the Secretary of Health and
13 Human Services, and

14 “(B) for consultation services to the tax-
15 payer or employees of the taxpayer relating to
16 breastfeeding.

17 “(2) COSTS OF OTHER EXCLUSIVE USE PROP-
18 erty INCLUDED.—Such term includes any amount
19 paid or incurred for the acquisition or lease of tan-
20 gible personal property (not described in paragraph
21 (1)(A)) which is exclusively used by mothers who are
22 employees of the taxpayer to breastfeed or express
23 milk for their children unless such property is lo-
24 cated in any residence of the taxpayer or any em-
25 ployee of the taxpayer.

1 “(d) RECAPTURE OF CREDIT.—

2 “(1) IN GENERAL.—If, during any taxable year,
 3 any property for which a credit was allowed under
 4 this section is disposed of or otherwise ceases to be
 5 used by the taxpayer as required by this section,
 6 then the tax of the taxpayer under this chapter for
 7 such taxable year shall be increased by an amount
 8 equal to the recapture percentage of the aggregate
 9 decrease in the credits allowed under section 38 for
 10 all prior taxable years which would have resulted
 11 solely from reducing to zero any credit determined
 12 under this section with respect to such property. The
 13 preceding sentence shall not apply to property leased
 14 to the taxpayer.

15 “(2) RECAPTURE PERCENTAGE.—For purposes
 16 of this subsection, the recapture percentage shall be
 17 determined in accordance with the following table:

“If the recapture event occurs in:	The recapture percentage is:
Year 1	100
Year 2	60
Year 3	30
Year 4 or thereafter	0.

18 The references to years in the preceding table are
 19 references to the consecutive taxable years beginning
 20 with the taxable year in which the property is placed
 21 in service by the taxpayer as year 1.

1 “(3) CERTAIN RULES TO APPLY.—Rules similar
2 to the rules of paragraphs (3) and (4), and subpara-
3 graphs (B) and (C) of paragraph (5), of section
4 50(a) shall apply for purposes of this subsection.

5 “(e) SPECIAL RULES.—For purposes of this
6 section—

7 “(1) AGGREGATION RULES.—For purposes of
8 subsection (b), all persons which are treated as a
9 single employer under subsection (a) or (b) of sec-
10 tion 52 shall be treated as a single taxpayer, and the
11 dollar amount contained in such subsection shall be
12 allocated among such persons under regulations pre-
13 scribed by the Secretary.

14 “(2) REDUCTION IN BASIS.—Rules similar to
15 the rules of paragraphs (1) and (2) of section 50(c),
16 and section 1016(a)(19), shall apply with respect to
17 property for which a credit is determined under this
18 section.

19 “(3) OTHER DEDUCTIONS AND CREDITS.—No
20 deduction or credit shall be allowed under any other
21 provision of this chapter with respect to any expend-
22 iture for which a credit is determined under this sec-
23 tion.”.

24 (b) CONFORMING AMENDMENTS.—

25 (1) Section 38(b) of such Code is amended—

1 (A) by striking “plus” at the end of para-
2 graph (11),

3 (B) by striking the period at the end of
4 paragraph (12) and inserting “, plus”, and

5 (C) by adding at the end the following new
6 paragraph:

7 “(13) the breastfeeding promotion and support
8 credit determined under section 45D(a).”

9 (2) Subsection (d) of section 39 of such Code
10 (relating to carryback and carryforward of unused
11 credits) is amended by adding at the end the fol-
12 lowing new paragraph:

13 “(9) NO CARRYBACK OF SECTION 45D CREDIT
14 BEFORE JANUARY 1, 2000.—No portion of the un-
15 used business credit for any taxable year which is
16 attributable to the credit determined under section
17 45D may be carried back to a taxable year begin-
18 ning before January 1, 2000.”.

19 (3) The table of sections for subpart D of part
20 IV of subchapter A of chapter 1 of such Code is
21 amended by adding at the end the following new
22 item:

“Sec. 45D. Credit for employer expenses incurred to facilitate em-
ployed mothers who breastfeed or express milk for
their children.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1999.

○

file: bcr62: re wmpm

Bennie C. Rogers

03/06/2000 02:45:34 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: ola@opm.gov @ inet, EEOC.OCLA@EEOC.gov @ inet

Subject: LRM BCR62 - - LABOR Statement for the Record on Helping New Mothers Balance Their Work and Family Obligations

Following is LRM ID: BCR62. Please read and respond by 3:00 PM, Tuesday, March 7th, to the attached Department of Labor Women's Bureau (Garza) remarks to be given at Rep. Maloney's March 8th press conference to introduce her new bill, H.R.____, the Pregnancy Discrimination Act Amendments of 2000.

Agencies: Please contact me if you do not receive this e-mailed LRM in good working form. For your convenience, we will follow this e-mail by sending a copy by fax.

EOP Staff: You will not receive a paper copy of this LRM.



- Maloney6.wpd

----- Forwarded by Bennie C. Rogers/OMB/EOP on 03/06/2000 02:36 PM -----

LRM ID: BCR62

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Monday, March 6, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Constance J. Bowers (for) Assistant Director for Legislative Reference

OMB CONTACT: Bennie C. Rogers

PHONE: (202)395-7754 FAX: (202)395-6148

SUBJECT: **LABOR Statement for the Record on Helping New Mothers Balance Their Work and Family Obligations**

DEADLINE: **3:00 PM Tuesday, March 7, 2000**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: Attached are the Department of Labor's Women's Bureau (Garza) remarks to be given at Rep. Maloney's March 8th press conference to introduce her new bill, H.R.____, the Pregnancy Discrimination Act Amendments of 2000.

Remarks

Women's Bureau Director Irasema T. Garza
Congresswoman Carolyn Maloney's Press Conference
March 8, 2000

Thank you. I am here today because this Administration shares Congresswoman Maloney's goals of helping new mothers balance their work and family obligations and improving the health of our Nation's children. The Administration agrees with Congresswoman Maloney – that women should not be intimidated, or face discrimination or harassment, because of their need to breastfeed or express milk in the workplace.

One of the most significant trends of recent decades has been the phenomenal rise in working women -- and working mothers. Today, approximately 60% of mothers are in the workforce before their babies' first birthdays. Most work on a full-time basis. (BLS, 1998.) Many tell us they work because their paychecks are critical to the well-being of their families.

This Administration is committed to helping these women-- and all workers-- succeed both on the job and at home. I am proud of the steps we have taken – from signing into law the Family and Medical Leave Act, to expanding the Earned Income Tax Credit for families, to holding the first-ever White House Conference on Child Care.

The Administration has also been working to help new mothers balance work and family responsibilities by accommodating the women who need to breastfeed or express their milk in a safe, private, and healthful workplace environment. On May 24, 1999, President Clinton announced his support for providing Federal employees with on-site nursing mothers' programs. The President directed Federal agencies to, among other things, appoint a "family-friendly work/life coordinator" whose duties include establishing and promoting on-site nursing mothers programs. To date, the Departments of Labor, Agriculture, State and Transportation, as well as the Office of Personnel Management, the General Accounting Office and the National Security Agency, have all implemented some form of the nursing mothers' programs.

In addition, last Spring the Office of Personnel Management's Family Friendly Workplace Advocacy Office released "Establishing A Nursing Mothers Program – A Guide for the Federal Workplace." This publication offers practical information to Federal agencies about establishing such programs – as well as a comprehensive listing of resources on breastfeeding issues. And the Department of Labor Women's Bureau has been working for several years to encourage and highlight private sector employer lactation programs through our Honor Roll Report and Business-to-Business Mentoring Initiative on Child Care.

Congresswoman Maloney should be congratulated for her tireless efforts in this cause. We look forward to working with Congresswoman Maloney to continue to meet the needs of employees who are doing their best to be good workers-- and good parents.

OFFICE OF MANAGEMENT AND BUDGET**Legislative Reference Division****Labor-Welfare-Personnel Branch**

287
TO: Broderick Johnson, Tameesha Johnson
277 Lisa Kounoupes 217 Elizabeth Gore
188 Ann O'Leary
66218 Lauren Supina

FROM: Bennie Rogers**Phone # : (202) 395-7754****Fax # : (202) 395-6148****E-mail Address: Bennie_C._Rogers@omb.eop.gov****Number of Pages (including cover page):** 3**Date:** 2/29/00 **Time:** _____**Comments:**

Attached, please find EEOC's
Comments on the pregnancy Discrimination
Act "Findings and Purposes." [BCR 56].

Please let me know ASAP if you
agree with EEOC.

Thanks,

Ben Rogers

LRM ID: BCR56 SUBJECT: Executive Office of the President Drafting Service on HR____
Pregnancy Discrimination Act Amendments of 2000

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Bennie C. Rogers Phone: 395-7754 Fax: 395-6148
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: 2/29/00 (Date)
 Bill White (Name)
 EEOC (Agency)
 663-4900 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

☐ Concur

☐ No Objection

☐ No Comment

☐ See proposed edits on pages _____

☐ Other: _____

☒ FAX RETURN of 1 pages, attached to this response sheet



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

February 29, 2000

MEMORANDUM

TO: Ben Rogers
Legislative Reference Division
Office of Management and Budget

FROM: William J. White, Jr., Acting Director *WJW*
Office of Communications and Legislative Affairs

SUBJECT: H.R. ____, Pregnancy Discrimination Act Amendment

The Equal Employment Opportunity Commission has reviewed the "Findings and Purposes" developed for inclusion in Representative Maloney's bill, H.R. ____, Pregnancy Discrimination Act Amendment. For all of the reasons EEOC has previously stated, we continue to object to an amendment to the PDA as a vehicle to provide increased protection to lactating mothers. The proposed "Findings and Purposes" language does not address in any fashion EEOC's concerns about the very substantial risks raised in connection with amending the PDA which were presented at last Friday's conference call and in prior correspondence. Further, our concerns are not at all ameliorated by a political judgment as to whether or not this legislation will actually move through the legislative process. In our judgment, the Administration's support for such an amendment presents significant risks to the continued enforcement of the PDA.

Bennie C. Rogers

02/29/2000 09:54:24 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: LRM BCR56 - - Executive Office of the President Drafting Service on HR____ Pregnancy Discrimination Act Amendments of 2000

Following is LRM ID: BCR56. Please read and respond by 2:00 PM, TODAY, TUESDAY, February 29th, to the attached Executive Office of the President Drafting Service on HR____, the Pregnancy Discrimination Act Amendments of 2000. Rep. Maloney is expected to introduce this bill, on Wednesday, March 1, 2000. The attached "Findings and Purposes" have been developed to submit to Rep. Maloney for possible inclusion into the bill. (Please note, the "Findings and Purposes" are intended to replace the Labor letter we circulated for clearance as BCR49. (That DOL letter was not cleared.)

THIS IS A HARD DEADLINE. IF WE DO NOT HEAR FROM YOU BY THE COMMENT DEADLINE, WE WILL ASSUME YOU HAVE NO COMMENT.

Agencies: Please contact me if you do not receive this e-mailed LRM in good working form. For your convenience, we will follow this e-mail by sending a copy by fax.

EOP Staff: You will not receive a paper copy of this LRM.



- pda.wpd

----- Forwarded by Bennie C. Rogers/OMB/EOP on 02/29/2000 09:34 AM -----

LRM ID: BCR56

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Tuesday, February 29, 2000

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Robert J. Pellicci (for) Assistant Director for Legislative Reference

OMB CONTACT: Bennie C. Rogers

PHONE: (202)395-7754 FAX: (202)395-6148

SUBJECT: Executive Office of the President Drafting Service on HR____ Pregnancy Discrimination Act Amendments of 2000

DEADLINE: 2:00 PM Tuesday, February 29, 2000

[Insert] Sec. 2. Findings; Purposes

(a) Findings.-- Congress finds the following:

(1) Women with infants and toddlers comprise one of the fastest growing segments of today's labor force.

(2) Statistical surveys of working families show that over 50% of mothers return to the labor force before their babies are one year old.

(3) There are significant health benefits that breast feeding provides to children; the American Academy of Pediatrics recommends that mothers breastfeed for at least the first twelve months of a child's life, and that arrangements be made to allow a mother's expressing of milk if mother and child must separate.

(4) The health benefits to children from breastfeeding means that working parents miss less time from work due to their baby's illness.

(5) Although the Pregnancy Discrimination Act of 1978 (PDA) covers "pregnancy, childbirth, or related medical conditions", a number of courts have failed to reach the conclusion that breastfeeding and expressing breast milk in the workplace are covered by the PDA.

(b) Purposes.-- The purposes of this Act are as follows:

(1) To promote the health and well-being of infants whose mothers return to the workplace after childbirth.

(2) To clarify that breastfeeding and expressing breast milk in the workplace are protected acts under the Pregnancy Discrimination Act of 1978.

[Change Sec. 2. to **Sec. 3**]