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Case Examples of Parental Discrimination

Minnesota case -- Discrimination in Hiring

The appellant applied for a full-time teaching position, which also included coaching responsibilities. The district chose another female applicant, without children, for the position with less teaching and coaching experience. Consequently, the appellant sued the district, asserting a discrimination claim under the Minnesota Human Rights Act. Specifically, she claimed that the district had a hiring policy that treated women and men with young children differently. However, she did not prove that men similarly situated were treated differently (though such proof is generally required by gender discrimination law). The Minnesota Court of Appeals found that the appellant had a cause of action under the Minnesota Human Rights Act even though the act does not prohibit familial status discrimination. (*Pullar v. Independent School District No. 701*, 582 N.W.2d 273, 1998 Minn.)

The President's proposal would clearly prohibit such discrimination, and would allow people in every state to claim such a protection.

Discrimination in Demotion/Termination

Appellant, a new mom, was demoted to a job with fewer responsibilities and half the salary, after she returned to work from maternity leave because the employer believed that new mothers could not take their work responsibility seriously. (*Piantanida v. Wyman Center*, 116 F.3d 340, (1997) Appealed from the Eastern District of Missouri) Though the court ruled she had no protection under the Pregnancy Discrimination Act (which is part of Title VII), she would be protected under our proposed statute. The court in that case stated that there was no relief for the plaintiff, because "[a]n employer's discrimination against an employee who has accepted this parental role -- reprehensible as this discrimination might be -- is therefore not based on the gender-specific biological functions of pregnancy and child-bearing, but rather is based on a gender-neutral status potentially possessible by all employees, including men and women who will never be pregnant."

Discrimination in Promotion

Appellant, a married woman with two children aged six and eleven who had spotless record of job performance, was passed up for a significant promotion, which was instead given to single women with no children. Her employers specifically stated on several occasions that women with children could not do either job well and questioned her commitment to the job. (*Trezza v. The Hartford Inc.*, 1998 W.L. 912101 (Southern District of New York). While under present law she would have to prove that a man received promotions who was in the same situation she was in, a heavy burden to meet (that the court recognized was often impossible to meet), our proposed law would simply prohibit such actions.

Demotion/ constructive termination

While plaintiff was on maternity leave, her job was given to a new employee. When plaintiff returned from maternity leave, she was offered a job that was a demotion to an hourly wage job from a salaried position. She refused the position and alleged that she was discriminated against because she had a family. The court held that discrimination based on new parenthood does not

state a claim under the Pregnancy Discrimination Act, nor is it cognizable gender discrimination. (Santrizos v. Aramark Corporation, 1998 U.S. Dist. LEXIS 15946 (U.S. Northern District of Illinois))

Termination

Plaintiff, a truck driver and parent, was given much longer hours, with often little notice of a long run, after she miscarried. After complaining about her hours, she and her employer worked out an arrangement in which she would be given due notice of times when she would be required to work late, so that she may make child care arrangements. On one occasion, the plaintiff refused a dispatch because she had not been given advance notice that she would be required to work late, contrary to the prior agreement between the parties. Her refusal to take the dispatch led to her termination. While the court noted evidence that indicated the employer may have harbored "discriminatory animus towards employees with families, or working parents," the court found insufficient evidence of gender discrimination and therefore found no cognizable discrimination under federal law. The court dismissed the claims on a summary judgment motion. (Nelms v. Overnight Transportation Company, 1996 U.S. Dist. LEXIS 3827, (1996), District Court in Michigan)

Termination

Plaintiff worked starter her employment with the defendant company as an accountant and after 15 years of promotions, positive performance reviews and bonuses, she attained the position of Director of Advertising Sales Administration. When plaintiff was six months pregnant, a new female Director of Advertising was hired (who was lesbian), as her immediate boss. After her pregnancy, plaintiff took maternity leave. When she returned to work, she found her job responsibilities diminished, she was often assigned tasks normally performed by lower-level employees, her responsibilities were usurped, she was often reprimanded for not working on her days off, and was generally isolated. Within a year of returning to work, plaintiff was told her job was being eliminated and she was then terminated with three weeks notice. Plaintiff claimed that her job functions allegedly did not cease, but were performed instead by the employee who replaced plaintiff during her maternity leave. She argued that her new boss, a lesbian, and the director for her bureau, a single woman without children, were hostile toward her as a married mother. While the court dismissed most of her claims, it did allow her to survive a summary judgment motion on her Title VII claims (though it did not specify its rationale its holding). (Coraggio v. Time Inc. Magazine, 66 Empl. Prac. Dec. (CCH) P43,578 (1995) Southern District of New York).

Demotion/Termination

Three plaintiffs filed suit against their former employer alleging pregnancy discrimination. All three plaintiffs faced a hostile working environment after they informed their employer that they were pregnant, and each faced reduced hours, reduced pay, demotion or termination after they returned from maternity leave as mothers of young children. Because their alleged discrimination started when they were pregnant, the court found that their claim of pregnancy discrimination could survive a motion to dismiss. (Donaldson, Morale, and Zavilla v. American Banco Corporation, Inc., 945 F. Supp. 1456 (1996) (U.S. D.Ct. Colorado)). However, the President's proposal would extend such protection to employees of both sexes who face similar

discrimination only after childbirth.

Termination

Plaintiff requested time off for the birth of his child before the Family and Medical Leave Act was the law of the land. When he discussed his request with his employer, he was told that he "better not take off work." Indeed, his employer admitted ahead of time that if he was terminated it would be solely because he wanted to take time off for the birth of his child. After he took leave and was terminated, he filed suit on the basis of pregnancy discrimination. The court rejected that claim and because FMLA did not apply, the Court held that the plaintiff had no cognizable claim. (Cooper v. Drexel Chemical Company, 949 F. Supp. 1275 (1996) U.S. D.Ct. Northern District of Mississippi) The President's proposal would protect such an employee if other non-parents were allowed to take time off.