



P.O. Box 32159
Newark, NJ 07102

Tel: 973-642-2086
Fax: 973-642-6523

info@aclu-nj.org
www.aclu-nj.org

Frank Corrado
President
Udi Ofer
Executive Director
Edward Barocas
Legal Director

Testimony on Senate Bill No. 2995
to the
Senate Labor Committee
submitted by
Ari Rosmarin, Public Policy Director
American Civil Liberties Union of New Jersey
November 7, 2013

Thank you Chairman Madden and the other members of the Committee. My name is Ari Rosmarin. I am the Public Policy Director for the American Civil Liberties Union of New Jersey (ACLU-NJ). The ACLU-NJ is a non-profit, nonpartisan organization founded in 1960 to promote and defend the rights and freedoms in the New Jersey and federal Constitutions. The ACLU has over 15,000 members statewide and hundreds of thousands of members across the country.

The ACLU is proud to testify before this committee today in support of Senate Bill No. 2995. We believe that S2995 will go a long way towards finally ending workplace discrimination against pregnant women in New Jersey. Our state has long been a proud leader in ending discrimination and this bill will help ensure that New Jersey lives up to its aspirational values of fairness and equality under the law.

S2995 accomplishes a number of important things. First, it explicitly adds pregnancy status to our state's Law Against Discrimination, one of our greatest bulwarks against what our State Supreme Court has called the "cancer of discrimination." Second, the bill adds sensible conditions on how employers treat New Jersey's pregnant women. Under the bill, an employer would be required to make reasonable accommodations for pregnant women's needs as advised by her physician, would be prevented from penalizing pregnant women from using those accommodations, and, critically, would be prevented from firing pregnant women whose medical conditions during pregnancy may force them to be absent from the workplace for more time than our laws currently allow.

Despite decades-old federal laws preventing pregnancy discrimination, and our own LAD, pregnant women across the country continue to face discrimination and suffer employment consequences due to their medical needs during pregnancy. In one case, a pregnant worker was denied a stool to sit on at the security job where she worked; in another, a pregnant cashier was not allowed to keep a water bottle at her workstation and collapsed at her register; in other cases,

a pregnant line cook was denied additional bathroom breaks.¹ S2995 would make sure that New Jersey's employers make reasonable accommodations for women like these so that they can continue to work, and remain healthy, where possible.

For those who might question the need for this legislation in New Jersey, I'd direct your attention to the 2005 New Jersey Supreme Court Case, *Gerety v. Atlantic City Hilton Casino Resort*.² In *Gerety*, a divided Supreme Court upheld a casino's decision to fire Christina Gerety, a pregnant woman whose doctor instructed her to not to return to work after a specialist discovered a serious problem with one of the twins she was carrying. Ms. Gerety decided to listen to her doctor's instructions and not to go work. The casino responded by firing her. The Court held that the LAD did not prevent the casino from firing Ms. Gerety because she had used up the medical leave available to her and the casino's policy was applied to women and men equally.

What does it say about our state's values that our laws ask a woman to make the choice between doing what's needed to protect her pregnancy, and keeping her job?

S2995 would ensure that other women like Ms. Gerety are not forced to make such an agonizing choice. We know that approximately half of New Jersey workers are women and that three-quarters of women entering the workforce will become pregnant while employed at some point in their lives. We must make sure that our laws do not discriminate against these women for their pregnancies. Indeed, if there ever was legislation that protected "family values," this is it.

The ACLU of New Jersey urges your strong support for S2995.

¹ For more accounts of pregnant workers denied reasonable workplace accommodations, see THE REFUSAL TO ACCOMMODATE PREGNANT WORKERS: REAL ACCOUNTS OF THE DEVASTATING CONSEQUENCES FOR WORKERS AND THEIR FAMILIES (2013), https://www.aclu.org/files/assets/true_stories_about_why_pregnant_workers_need_workplace_accommodations.pdf

² *Gerety v. Atlantic City Hilton Casino Resort*, 184 N.J. 391 (2005).