



COMMITTEE ON
EDUCATION & LABOR
REPUBLICANS

COMMITTEE
STATEMENT

**Statement on the Democrat Substitute to H.R. 2694
Rep. Phil Roe (R-TN)
Committee on Education and Labor
Markup of H.R. 2694, *Pregnant Workers Fairness Act* and H.R. 5191, *Runaway
and Homeless Youth and Trafficking Prevention Act of 2019*
January 14, 2020**

(As prepared for delivery)

“As an OB/GYN who practiced medicine for over 31 years, the issue of pregnancy is one I take very seriously and upon which I built a career before coming to Congress. Given the important nature of the issue, and my years of experience caring for pregnant women, I appreciate the Committee’s consideration of this legislation today.

My fellow Republicans and I support protections in federal law for pregnant workers, and we believe employers should provide reasonable accommodations as well. We support the provisions contained in the Chairman’s ANS and appreciate the bipartisan negotiations that took place to get this bill to where it is today. While there is still work to be done, we commend the Chairman for the improvements to H.R. 2694.

H.R. 2694, as introduced, did not require a pregnant worker – in order to be eligible for an accommodation – to be able to perform the essential functions of the job with a reasonable accommodation. This is a sensible provision now included in the bill. A definition of ‘known limitations’ related to pregnancy, childbirth or related medical conditions was also initially excluded, but the bill now includes such a definition including a requirement that employees communicate the known limitation to the employer. This provision will help workers and their employers understand their rights and responsibilities.

Additionally, the original draft of H.R. 2694 appeared to allow employees a unilateral veto over offered accommodations, but the bill now clarifies that reasonable accommodations will typically be determined through a balanced and interactive dialogue between workers and employers, like the process implemented under the *Americans with Disabilities Act*. It also did not include a limitation on applicability to employers with 15 or more employees – as is the case in Title VII of the *Civil Rights Act* and Title I of the *Americans with Disabilities Act* – but now includes the 15-employee threshold.

Finally, the bill now includes a provision that if an employer makes a good faith effort to determine a reasonable accommodation through the interactive process with the employee, the employer is not liable for damages.

Unfortunately, despite agreement on these changes, there remains an important outstanding issue that needs to be resolved. There is a narrow but long-standing provision from the *Civil Rights Act* that is not currently incorporated in H.R. 2694 that protects religious organizations from being forced to make employment decisions that conflict with their faith. The First Amendment guarantees all Americans the freedom of religion, and for over 240 years, Supreme Court decisions and laws written by Congress have maintained strong protections for religious liberty. Excluding such a provision in this bill could lead to confusion and even a constitutional challenge. We should be mindful of protecting religious liberty and maintaining a protection in this bill like those found in other, similar laws.

Mr. Chairman, we made good progress to date negotiating a bipartisan compromise on H.R. 2694. I look forward to working toward securing a bipartisan agreement on this legislation with you before the bill is considered by the whole House.”

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