Chairman Baumgartner and Members of the Committee:

My name is Janet Chung and I’m Legal & Legislative Counsel with Legal Voice. I’m pleased to be here to speak in support of SB 6149. I’m going to focus today on providing some legal context about why this bill is necessary and important to advancing women’s health and gender equity in the workplace.

The federal Pregnancy Discrimination Act and the Washington Law Against Discrimination are the existing federal and state laws that protect pregnant workers. But still, as you have heard from others today - too many pregnant women are still forced out on leave before they are ready – or worse, fired because they sought minor accommodations to their workplaces.

Existing laws protecting pregnant workers use an anti-discrimination framework – that is, the laws state that discriminating based on pregnancy is a form of sex discrimination – but do not say anything specifically about accommodations. The anti-discrimination proof process under these anti-discrimination laws is not well-suited to meet the needs of workers needing accommodations.

Under existing law, a pregnant worker has to prove unlawful treatment based on her employer’s failure to accommodate her pregnancy. The U.S. Supreme Court recently clarified in Young v. UPS what this means: a pregnant worker has to show that an employer accommodates a large percentage of non-pregnant workers “similar in their ability to work” while denying accommodations to a large percentage of pregnant workers. Basically, it requires a pregnant woman to go out and search for some non-pregnant identical twin to prove a case.

This evidentiary framework simply doesn’t work for pregnant workers who need an immediate, and often, minor, accommodation to stay healthy and on the job and prevent complications. Few women have the time or resources to litigate and prove discrimination. Many are new to their jobs, lack bargaining power, are unfamiliar with company policies (if there are any) and simply do not have the luxury of time to sort out these questions – especially while their pregnancy time clock is ticking.
By contrast, when workers have ADA-covered disabilities that require accommodation, they don’t have to show how other employees are treated. Disabled workers are generally entitled to reasonable accommodation unless the requested accommodation imposes an “undue hardship” on the employer.

**Pregnant workers deserve the same clarity.**

The PWFA also has the benefit of treating pregnancy as its own condition, instead of requiring that it be compared with other disabilities. It’s true that some pregnant workers have disabilities that are covered by the ADA, but the majority of pregnant workers are not disabled. Rather, they are trying to prevent pregnancy complications. But under the current law, they would have to prove they’re disabled to get the accommodation they need to stay healthy and on the job.

This bill will provide employers and pregnant workers with a clear, predictable rule: Employers must provide reasonable accommodations to employees with limitations arising out of pregnancy, childbirth, or related health conditions.

Simple accommodations are all that most women need to keep them healthy AND earning an income when they need it most.

It’s in everyone’s best interest to help keep pregnant women healthy, and also to keep them in the workforce as long as they are healthy. This bill is good for women, for families, and our economy, and Legal Voice is proud to support this legislation.