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NEWS FOR IMMEDIATE RELEASE

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Attorney General Kaul Takes Action to Defend Protections for Pregnant Workers

AG Kaul joins 23 Attorneys General to Oppose Effort to Undermine Federal Regulations Requiring Employers to Provide Accommodations for Pregnant and Post-Partum Employees

MADISON, Wis. – Attorney General Josh Kaul today joined a coalition of 23 attorneys general defending a proposed rule issued by the Equal Employment Opportunity Commission (EEOC) to implement the Pregnant Workers Fairness Act (PWFA) of 2022. The PWFA is landmark federal legislation that requires employers to provide reasonable accommodations for pregnant and post-partum employees. The EEOC rule would require employers to provide reasonable accommodations for a broad range of conditions related to pregnancy and childbirth, including an employee’s decision to terminate a pregnancy. In an amicus brief filed in the U.S. District Court for the Eastern District of Arkansas, Attorney General Kaul and the coalition opposed a lawsuit seeking to stop the EEOC’s rule from taking effect.

“Pregnant and post-partum workers shouldn’t have to choose between their jobs and doing what’s best for their health,” said AG Kaul. “The rule implementing the Pregnant Workers Fairness Act should remain in effect in full, including for workers who obtain an abortion.”

Enacted in 2022, the PWFA is the first federal law that requires employers to provide pregnant and postpartum workers with reasonable accommodations – such as additional breaks or excused time off for doctors’ visits – to protect their health. Prior to its passage, a patchwork of laws failed to adequately protect pregnant or postpartum workers, putting many at risk of health complications or job loss, with a disproportionate effect on low-income workers and workers of color. In August 2023,

the EEOC proposed a rule implementing the PWFA that, among many other things, required employers to provide reasonable accommodations for workers whose pregnancies are terminated by abortion – most commonly in the form of time off to attend a medical appointment or recovery.

In April 2024, a group of states led by Tennessee sued the EEOC in the U.S. District Court for the Eastern District of Arkansas, arguing against the requirement of reasonable accommodations for abortion care and seeking to stop the implementation of the entire EEOC rule pending the outcome of the litigation.

In an amicus brief to the District Court, Attorney General Kaul and the coalition argue for the importance of the PWFA, noting that job loss due to pregnancy discrimination can impoverish workers and families and affect their economic security at a critical time in their lives. The PWFA provides important workplace protections for pregnant and postpartum workers, particularly low-wage workers and workers of color who are more likely to suffer negative health outcomes during pregnancy as a result of their jobs. The brief also argues that the EEOC was correct to include termination of pregnancy – including via miscarriage, stillbirth, or abortion – in the law’s protections for “pregnancy, childbirth, or related medical conditions.” Decades of case law interpreting an identical term in the Pregnancy Discrimination Act support the EEOC’s interpretation.

Joining Attorney General Kaul in filing the amicus brief are the attorneys general of Arizona, California, Colorado, Connecticut, Delaware, Hawai‘i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and Wisconsin, and the District of Columbia.