



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

HOUSE DEMOCRATIC POLICY COMMITTEE HEARING
Topic: Janus vs. AFSCME Decision's Impact on Women of Color
District 1199 Union Hall – Philadelphia, PA
August 7, 2018

AGENDA

- 12:00 p.m. Welcome and Opening Remarks
- 12:10 p.m. Amal Bass
Staff Attorney, Women's Law Project
- 12:40 p.m. Panel One:
- Chris Woods
Executive Vice President, District 1199C
 - Bonnee Breese Bentum
Board Member, Philadelphia Federation of Teachers
 - Gabe Morgan
Vice President and PA/DE State Director, 32BJ SEUI
 - Nicole Hunt
President, Unite Here Local 634
- 1:20 p.m. Panel Two:
- Ethelind Baylor
Vice President, AFSCME District Council 47
 - Janay Hawthorne
Member, AFSCME District Council 47
 - Sylvia Hovington
Member, UFCW Local 1776
- 1:50 p.m. Closing Remarks

Testimony on the Impact of *Janus v. AFSCME* on Women & Women of Color
By Amal Bass, Staff Attorney, Women's Law Project
Before the Women and Girls of Color Subcommittee
Of the Pennsylvania Legislative Black Caucus

August 7, 2018

Thank you to Representative Cephas and the Women and Girls of Color Subcommittee for inviting me to present this testimony. I am Amal Bass, and I am a staff attorney at the Women's Law Project, a nonprofit, legal advocacy organization based in Philadelphia and Pittsburgh that seeks to advance the legal status of women and girls through impact litigation, public policy advocacy, community education, and individual counseling.

I am here today to talk about black women's equal pay and the impact of the U.S. Supreme Court's decision in *Janus v. AFSCME Council 31*. The *Janus* lawsuit was funded by corporate interests, and the Supreme Court's decision overturns forty years of precedent, undermining the stability of public sector unions that have served as an equalizing force in our society. In Pennsylvania, women make up over half of the public sector workforce, which includes teachers, first responders, and other government employees, and women also make up half of union membership.¹ The *Janus* decision jeopardizes the economic security of these women, and it will make the struggle for equality even harder as we continue our effort to eliminate the wage gap between women and men, a wage gap that is even wider for women of color.

Today, August 7th, is Black Women's Equal Pay Day, which is the day that symbolizes how long in the year a black woman, on average, must work into the year to make as much money as a white man makes by the end of the previous year. That is eight months of more work, an enormous disparity, and Latina women and Native women must work even longer into the year to make what a white man made by the end of the previous year.

The gender wage gap, exacerbated by race and ethnicity, exists in nearly every profession and industry. In Pennsylvania, overall, employers pay women 79 cents for every dollar they pay to men. Meanwhile, employers in Pennsylvania pay black women 68 cents and Latina women 56 cents for every dollar they pay to white, non-Hispanic men. Pennsylvania's wage gap is worse than the national average, with projections suggesting that women in Pennsylvania will not achieve equal pay until 2068, nine years behind the average nationwide.² There are many factors that contribute to this pay gap, including direct discrimination in pay, bias against women who are pregnant, parenting, or caregiving, and occupational segregation.

¹ National Women's Law Center (NWLC), Fact Sheet: Public Sector Unions Promote Economic Security and Equality for Women (Jan 2018) (Source: NWLC calculations based on CPS 2013-2017 data using IPUM-CPS).

² IWPR, Fact Sheet, IWPR # R519, The Economic Status of Women in Pennsylvania (Mar. 2018), <https://statusofwomendata.org/wp-content/themes/witsfull/factsheets/economics/factsheet-pennsylvania.pdf>.

workers negatively. Unfortunately, because the decision is grounded in an interpretation of the First Amendment, state legislatures cannot simply pass corrective legislation. However, there are important ways the Pennsylvania General Assembly can assist workers and unions to mitigate the effects of *Janus*.

Some states have reacted to the *Janus* decision by passing laws designed to assist unions. For example, California and New York have passed laws that give unions the opportunity to contact employees as soon as they start working.⁷ It is important for Pennsylvania to consider legislation that strengthens unions, but in the meantime, there are several pieces of legislation that have been languishing in the General Assembly that will improve the economic security of workers. This legislation needs to become law, including bills that would:

- **Close the Loopholes in Our Equal Pay law**

Our state Equal Pay Act has not been updated since 1967, when the General Assembly amended it to apply to fewer people. HB 1243 would close loopholes in this state law, ban employer reliance on salary history, and prohibit employers from retaliating against employees for disclosing wage information. The only bill that has progressed is a fake equal pay bill, SB 241, which passed the Senate and now sits in the House Labor and Industry Committee. It does not address the loopholes in our state law. It only takes away authority from local governments to fix the problems.

- **Provide Reasonable Accommodations for Pregnant Women**

While women from all races and ethnicities experience pregnancy discrimination, black women are disproportionately affected, filing 28% of pregnancy discrimination charges with the Equal Employment Opportunity Commission when they are about 14% of the workforce.⁸ One form of pregnancy discrimination involves the denial of reasonable accommodations for pregnant workers who need minor modifications to their jobs, such as having access to water or a chair, and many women lose their jobs when their employers refuse to accommodate them. Black women face a higher risk of pregnancy complications that may result in the need for accommodations and that also make the loss of employer-provided health insurance particularly dire.⁹ In many cases, this form of discrimination falls through the gaps in our current laws.

⁷ See Adam Ashton, Get a state job and meet your labor rep: How state budget protects California unions, *The Sacramento Bee* (June 14, 2017), <https://www.sacbee.com/news/politics-government/the-state-worker/article156146364.html>; Governor Cuomo Signs Legislation to Protect the Rights of New York's Working Men and Women (Apr. 12, 2018), <https://www.governor.ny.gov/news/governor-cuomo-signs-legislation-protect-rights-new-yorks-working-men-and-women>.

⁸ National Partnership for Women & Families, *By the Numbers: Women Continue to Face Pregnancy Discrimination in the Workplace* (Oct. 2016), <http://www.nationalpartnership.org/research-library/workplace-fairness/pregnancy-discrimination/by-the-numbers-women-continue-to-face-pregnancy-discrimination-in-the-workplace.pdf>

⁹ See, e.g., Tucker, M. J., et al (2007). The Black-White Disparity in Pregnancy-related Mortality from 5 Conditions: Differences in Prevalence and Case-fatality Rates. *American Journal of Public Health*, 97(2), 247-251.