

Know Your Rights: Pregnant Workers Fairness Act

February 2025

The **Pregnant Workers Fairness Act (PWFA)**¹, enacted in December 2022, is a federal law that provides pregnant and postpartum workers with the right to reasonable accommodation at work. With this law in place, pregnant workers can now continue working and supporting their families without risking their health or the health of their pregnancies.

How does the PWFA protect pregnant and postpartum workers?

- Eligible employees and applicants with a limitation related to pregnancy, child birth or related medical conditions have the right to a reasonable accommodation.
 - A reasonable accommodation under the PWFA is a change to an employee's work environment, job duties or schedule, when they need to perform their job, while keeping safe and healthy. These accommodations must be provided unless the accommodation will cause undue hardship on the employer.
- The PWFA also protects pregnant and postpartum workers from discrimination or retaliation due to their need for accommodations. Under the law, an employer may not:

Things To Know:

- Some workers are not covered by the PWFA due to size of the business or ongoing litigation.
- Your employer needs to know that you have a limitation covered by the PWFA but you do not need to disclose this information to everyone.
- Your employer does not have to provide the exact accommodation you request, but they do have to accommodate you unless doing so causes undue hardship.
- Your employer cannot make you take leave instead of accommodating you. This applies even if you cannot perform one of the main duties of your job so long as you can do them in the near future.
- If your employer does not provide an accommodation you can contact the EEOC or A Better Balance for assistance.

- Deny a job or employment opportunities to a qualified employee based on their need for a reasonable accommodation;
- Punish or retaliate against an employee or applicant for requesting or using a reasonable accommodation for a known limitation, reporting or opposing unlawful discrimination under PWFA or participating in a PWFA proceeding; or
- Coerce those who are exercising their rights or those helping others exercise their rights under the PWFA.

Am I protected under the PWFA?

Yes. You are protected under the PWFA if you (1) work for a covered employer **and** (2) have a limitation.

- A covered employer is a private employer or a state or local government that has more than 15 employees. Congress, federal agencies, employment agencies and labor organizations are also covered employers.
 - However, due to ongoing litigation, **the PWFA does not currently apply** to those employed by the state of Texas, some religious organizations and all workers in the state of Louisiana and Mississippi.²
- Also, your limitation must be known. This means your physical or mental condition related to, affected by, or arising out of pregnancy, childbirth or related medical conditions has been communicated to your employer. The limitation may be minor or episodic, such as morning sickness or migraines. It may also relate to maintaining the health of your pregnancy and yourself, such as postpartum depression. Additionally, a limitation may include seeking health care for pregnancy, childbirth, or related medical conditions, including obtaining an abortion.³

What type of accommodation can I receive under the law?

Examples of reasonable accommodations include:

- Taking paid or unpaid leave to recover from childbirth or conditions related to pregnancy or childbirth
- Switching to light duty
- Taking more frequent or longer breaks to drink water, eat, rest or use the bathroom
- Having a chair or stool to sit on while working
- Shifting to telework or temporary reassignment

- Working shorter hours, working part-time or having a later start time
- Having a private place to pump breastmilk

Can my employer refuse my request for reasonable accommodation?

Unfortunately, the answer is yes. Your employer does not have to provide an accommodation if they can demonstrate it would cause undue hardship. This means it would be significantly difficult or expensive for the employer to provide the accommodation in light of factors such as:

- The cost of the accommodation,
- The size of the employer and
- The employer's financial resources.

However, covered employers are required to provide reasonable accommodation to those who need it. Once you have made it known to your employer that you have a limitation covered under the PWFA, an accommodation should be given.

Additionally, the PWFA does not require your employer to provide you with the exact accommodation you request. The request process is an “interactive process” which simply means the employer and employee communicate about the known limitation and the accommodation needed. As such, employers can give you an alternative request even if your requested accommodation would not cause undue hardship.

What is considered a medical condition related to pregnancy or childbirth?

- Lactation
- Having an abortion
- Migraines
- Morning sickness
- Miscarriage
- Postpartum depression
- Stillbirth
- Preeclampsia
- Gestational diabetes

Do I have to tell my employer that I am pregnant or about my medical condition related to my pregnancy?

Generally, yes. The employer needs to know that you are covered under the PWFA. However, you do not need to tell your direct supervisor or your coworkers.

Although employers are not required to seek medical information from an employee's health care provider, the employer may seek this information under certain circumstances. However, you do not have to provide such documentation if it is unreasonable under the circumstances.

Documentation is unreasonable if:

- The limitation and need for an adjustment or change at work due to the limitation is obvious.
- The employer already knows about the limitation and the adjustment or change at work due to the limitation.
- The employee is currently pregnant and needs breaks for the bathroom or to eat or drink, needs to carry water with them to drink, or needs to stand if their job requires sitting or to sit if their job requires standing.
- The employee is lactating and needs modifications to pump at work or nurse during work hours.
- The employer would not ask an employee for documentation in that situation normally.

What should I do if I think my employer is violating my right to an accommodation?

If an employer denies your request for an accommodation or punishes you for requesting an accommodation, you can contact:

- The **Equal Employment Opportunity Commission** (EEOC), which is the agency responsible for enforcing the PWFA, and file a charge against your employer.
- A Better Balance, a legal advocacy organization dedicated to work family justice. They have a free and confidential legal helpline. You can use the **online form** or call 1-833-NEED-ABB (1-833-633-3222).⁴

The **deadline to file a charge** under the PWFA is 180 calendar days from the date of the discrimination. This deadline can be extended to 300 calendar days if a state or local

law also prohibits discrimination based on pregnancy, childbirth or related medical conditions.⁵

Additional laws that provide protection to workers affected by pregnancy, childbirth, or related medical conditions:

- Title VII of the Civil Rights Act protects covered workers from discrimination based on pregnancy, childbirth, or related medical conditions.⁶
- The Americans with Disabilities Act (ADA) protects covered workers from discrimination based on disability. Some pregnancy-related conditions can be considered disabilities under the law, however, pregnancy itself is not a disability.⁷
- The Pregnancy Discrimination Act makes it illegal to discriminate against a covered worker because of pregnancy, childbirth or a related medical condition.⁸
- The Family and Medical Leave Act (FMLA) gives covered employees the right to take up to 12 weeks of unpaid leave from work each year for certain family and medical purposes.⁹
- The Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act) gives employees the right to take breaks to pump milk at work, and the right to a clean, private space to pump.¹⁰

State or local laws may provide the same or additional protections for pregnant and postpartum workers. See protections offered by [state or local laws](#).

*** There has been litigation brought by several states, religious organizations and businesses in opposition to parts or all of the PWFA and the regulations implementing the law. The EEOC continues to uphold the rights of individuals and the enforcement of the PWFA.

¹ Pregnant Workers Fairness Act, § 42 U.S.C. 2000gg.

²U.S. Equal Employment Opportunity Commission. (2024). *Summary of Key Provision of EEOC's Final Rule to Implement the Pregnant Workers Fairness Act (PWFA)*. Retrieved 31 January 2025, from <https://www.eeoc.gov/summary-key-provisions-eeocs-final-rule-implement-pregnant-workers-fairness-act-pwfa>

³Pregnant Workers Fairness Act, 29 C.F.R. § 1636 (2024).

⁴ A Better Balance. (2024, June 24). *The Pregnant Workers Fairness Act (PWFA): Frequently Asked Questions*. Retrieved 30 January 2025, from <https://www.abetterbalance.org/resources/pregnant-workers-fairness-act-explainer/>

⁵ U.S. Employment Equal Opportunity Commission. (n.d.). *Timeliness*. Retrieved 31 January 2025, from <https://www.eeoc.gov/field->

office/losangeles/timeliness#:~:text=A%20charge%20must%20be%20filed,or%20local%20anti%2Ddiscrimination%20law

⁶ Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e - 2000e17.

⁷ Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.

⁸ Pregnancy Discrimination Act of 1978, §§ 2000e et seq.

⁹ Family and Medical Leave Act of 1993, 29 U.S.C. § 2601.

¹⁰ Providing Urgent Maternal Protections for Nursing Mothers Act, 29 U.S.C. § 218d.

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, reproductive health and rights, access to quality, affordable health care and policies that help all people meet the dual demands of work and family. More information is available at NationalPartnership.org.

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