What is the Pregnant Workers Fairness Act?

The Pregnant Workers Fairness Act (PWFA) is a **landmark civil rights law that ensures pregnant and postpartum workers are not forced off the job, and can get the accommodations they need, without facing discrimination or retaliation in the workplace.**

Specifically, the PWFA guarantees workers the affirmative right to receive reasonable accommodations for known limitations stemming from pregnancy, childbirth, and related medical conditions unless the requested accommodations would pose an "undue hardship" to the employer. The law ensures that millions of pregnant workers, those who have recently given birth, and others can protect their health without risking their paycheck. It is a major milestone for gender, racial, and economic justice across the country.

When did the Pregnant Workers Fairness Act go into effect?

The PWFA went into effect on **June 27, 2023**.

On April 15, 2024, the Equal Employment Opportunity Commission (EEOC), the federal enforcing agency, published final Pregnant Workers Fairness Act regulations further clarifying the law. There is a 60-day waiting period before these final regulations go into effect. They will be fully in effect on June 18, 2024.

What problem did the Pregnant Workers Fairness Act fix?

By guaranteeing a right to reasonable accommodations for pregnancy, childbirth, and related medical conditions, **the PWFA closes a gap in federal law that left pregnant and postpartum workers without remedy if they needed accommodations in order to prevent health complications and keep working**. Prior to the PWFA, existing law like the Pregnancy Discrimination Act only provided workers the right to receive accommodations if they could identify other similarly-situated people in their workplace who received accommodations — an insurmountable hurdle for most workers. Likewise, the Americans with Disabilities Act only provided the right to reasonable accommodations if the worker had a pregnancy-related disability. Before the PWFA's passage, then, many workers who had a medical need for accommodations related to pregnancy had no legal protections and were often forced off the job and into financial precarity.

What rights do workers have under the Pregnant Workers Fairness Act?

Workers now have a right to reasonable accommodation for pregnancy, childbirth, and related medical conditions, unless the accommodation would be really difficult or expensive (an **"undue hardship"**) for the employer to provide.

Some examples of **reasonable accommodations** include:

- Light duty, or help with manual labor and lifting
- Temporary transfer to a less physically demanding or safer position
- Additional, longer, or more flexible breaks to rest
- Changing food policies to allow a worker to have food
- Changing equipment, devices, or work station, such as providing a stool to sit on or adding a lock to a clean meeting room to turn it into a temporary lactation space

- Making existing facilities easier to use, such as relocating a workstation closer to the restroom
- Changing a uniform or dress code, like allowing wearing maternity pants
- Changing a work schedule, like having shorter work hours or a later start time to accommodate morning sickness
- Breaks, private space (not in a bathroom), and other accommodations for lactation needs
- Flexible scheduling for prenatal or postnatal appointments
- Remote work or telework
- Time off for bedrest, recovery from childbirth, postpartum depression, mastitis, and more

Workers have a right to reasonable accommodations as long as it would not be significantly difficult or expensive — an "undue hardship" — for their employers to provide. Undue hardship is based on factors like the cost of an accommodation and the employer's financial resources. For example, it would likely not be an undue hardship for a multimillion-dollar corporation with thousands of employees to temporarily transfer a warehouse worker to a light duty position.

- There are certain accommodations that will in virtually all cases not impose an undue hardship. These are called "predictable assessments." They include:
  - Carrying water to drink while working
  - Additional restroom breaks
  - Allowing the employee to sit or stand
  - Breaks to eat and drink

Workers now have a right to accommodations for a wide range of needs "related to pregnancy, childbirth, or related medical conditions."

- That includes common needs related to pregnancy and recovery from childbirth.
- Related medical condition includes lactation, mastitis, menstruation, and more.
- A pregnant or postpartum worker does not need to have a pregnancy-related *disability* in order to receive an accommodation. **This is a very important change to existing federal law.**

Under the Pregnant Workers Fairness Act, an employer must have a good-faith conversation with a worker seeking reasonable accommodations about the worker's needs and reasonable accommodations that could meet those needs. This is called the **"interactive process."**

- The interactive process can occur in person, by phone, over email, or in other ways. For example, Human Resources might have a meeting with a pregnant worker requesting accommodations to discuss what job duties the employee can safely do, or talk about available positions that the employee could temporarily transfer to.
- A worker does not need to use any "magic words," or mention the "Pregnant Workers Fairness Act" or the phrase "reasonable accommodation," in order to start this process.
- The employer must respond to the request and engage in the interactive process promptly.
- Even if you're not able to perform some of your main job duties, sometimes referred to as "essential functions," you may still have the right to receive accommodations so long as you're able to perform those duties in the near future and you only need the accommodation for a temporary amount of time.

Retaliating against a worker for needing, requesting, or using a reasonable accommodation is unlawful. An employer cannot force a worker to accept an accommodation that the worker does not want or need, or force a worker to take leave, whether paid or unpaid. For example, an employer cannot force a pregnant employee to accept a reduced work schedule or stop traveling for work, if the employee does not want or need those changes.

Who does the Pregnant Workers Fairness Act protect?

The law protects people who work for the government, and for private employers with at least 15 employees. In addition to full-time workers, the law also protects part-time, temporary, and seasonal workers as well as people applying for jobs.

What other laws protect pregnant and postpartum workers?

Other federal laws, including the Pregnancy Discrimination Act (PDA), Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), and the Fair Labor Standards Act (FLSA), provide additional protections, such as the right to be free from pregnancy discrimination, the right to unpaid, job-protected time off, and the right to break time and space to express milk at work. State and local pregnant workers fairness acts, paid family and medical leave laws, paid sick time statutes, and anti-discrimination laws provide further protections.

Where can I get help and learn more?

Call A Better Balance's free, confidential legal helpline at 1-833-633-3222 or visit our Get Help, PWFA Resources, or Workplace Rights Hub webpages. Even though the PWFA does not go into effect until June 27, 2023, you may have existing rights and protections that could help you, such as those noted above.