

State Pregnancy Leave and Accommodation Laws

Chart Provides State-by-State Details

Chart Data Provided
by Reed Group

“Even if a state statute does not specify leave or time-off as an accommodation, it is likely that such an accommodation would be available if appropriate under the circumstances.”

Megan Holstein, Esq.
Reed Group Compliance Director

If the leave and anti-discrimination rights of pregnant employees weren't on the radar for employers in the past, they are in 2015.

Three federal laws and enforcement priorities of the Equal Employment Opportunity Commission (EEOC) are making this a subject of concern for employers who want to be in compliance and do the right thing for their employees.

In addition to the Family and Medical Leave Act (FMLA) and Americans with Disabilities Act (ADA), the Pregnancy Discrimination Act (PDA) of 1978 received a re-charge last July when the EEOC published a guidance document about enforcement of the PDA.

“The good news is that the EEOC's July 2014 guidance was the first comprehensive update by the EEOC on the rights of pregnant workers since the 1983 publication of a Compliance Manual chapter on the subject, and this new guidance supersedes that chapter,” said Reed Group Compliance Director Megan Holstein, Esq.

“However, the EEOC's guidance substantially expanded upon the EEOC's previous interpretation regarding the rights of pregnant employees under the PDA and ADA. The EEOC's guidance now includes the mandate that an employer must reasonably accommodate an employee with a normal pregnancy.¹ And it was issued while the very topic of workplace accommodations for a pregnant employee is sitting in front of the U.S. Supreme Court in the case *Young v. United Parcel Service, Inc.*,² creating the potential for multiple interpretations and possible confusion resulting from conflicting guidance on the subject.”



Most employers who monitor EEOC enforcement priorities are aware of the federal ferment over pregnancy leaves. For some employers, pregnancy, childbirth, and related conditions are the largest single category of leave or disability. State laws can be challenging. National employers especially have difficulty staying current with the ever-changing state laws affecting this leave category; 27 states and Washington, DC have such laws.

To fill this gap, Reed Group has provided *@Work* a listing of state laws related to pregnancy leave and discrimination protections. The chart below, “State Pregnancy Leave and Anti-Discrimination Laws” is an extract from a more complete Reed Group LeaveAdvisor™ resource, including federal laws, and providing more detailed language about the laws.

This chart, published in *@Work* and at www.dmec.org, does not include states without such laws, or with no laws scheduled for implementation, as of December 2014. Those 23 states are: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Massachusetts, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, Virginia, and Wyoming.

The state laws listed on the chart include laws prohibiting discrimination against pregnant women, and require an employer to apply the same benefits, terms, and conditions to pregnancy, birth, recovery or associated conditions as applied to other temporary disabilities or impairments. Because language in state laws varies, Reed Group has provided a footnote for each listing with a

reference to the actual state statute.

“The statutes cited often list potential accommodations,” notes Holstein. “However, all indicate that the enumerated accommodations are not the only accommodations. Therefore, even if the statute does not specify leave or time-off as an accommodation, it is likely that such an accommodation would be available if appropriate under the circumstances.”

Among the 27 states and District of Columbia having such pregnancy laws, California, Washington DC, and Kansas have two laws in place or planned.

References

1. <http://go.reedgroup.com/2014-The-Baby-Bump.html>
2. *Young v. United Parcel Service, Inc.*, 707 F.3d 437 (4th Cir. 2013).

Chart 1. State Pregnancy Leave & Anti-Discrimination Laws

State/law	Anti-Discrimination Plus Leave Law? ¹	Covered Employers (ERs)	Eligible Employees (EEs)	Certification	Conditions Requiring Accommodation (accom)	Accommodations Required ²	Undue Hardship Exception?
California ³	N/A	ERs with five or more EEs	All	Yes	Disability because of pregnancy, birth, or related medical condition	4 months for female EEs disabled by preg., birth, or related medical conditions.	Unspecified
					Affected by pregnancy	A reasonable amount of time for those affected by the pregnancy.	
Connecticut ⁴	N/A	3 or more EEs	All	Unspecified	Disability resulting from pregnancy.	Reasonable leave of absence	No, limited by bona fide occupational qualification
Delaware ⁵	N/A	ERs with 4 or more EEs	All	Unspecified	Known limitations related to preg., birth and related conditions	Breaks, modified sched., time off (TO) to recover from birth	Yes
District of Columbia ⁶	N/A	All	All	Yes	Known limitations related to pregnancy, birth, related medical conditions, or breastfeeding	Breaks, TO to recover from birth, modified sched.	Yes
District of Columbia ⁷	Yes	All	All	N/A	N/A	N/A	N/A

Chart 1. State Pregnancy Leave & Anti-Discrimination Laws (continued)

Hawaii ⁸	N/A	All	All	Yes	Disability due to and resulting from pregnancy, birth, or related medical conditions	Leave for a reasonable amount of time, as determined by EE's physician, with regard for EE's physical condition & job requirements.	No
Illinois ⁹	N/A	ERs with 15 or more EEs within Illinois	All	Yes	Pregnancy, birth, or medical or common conditions related to pregnancy, or birth	Breaks, part-time/modified work sched., TO to recover from conditions related to birth, leave necessitated by preg., birth, or medical or common conditions related to preg. or birth	Yes
Iowa ¹⁰	N/A	ERs with 4 or more EEs	All	Yes, If ER requires EEs to submit a doctor's statement concerning ability to work before leave or sick benefits	Disability as a result of pregnancy, birth, or related medical conditions	The amount of time the EE is disabled by pregnancy, birth, or related medical conditions, or 8 weeks, whichever is less	No
Kansas ¹¹	Yes	ERs with 4 or more EEs	All	N/A	N/A	N/A	Yes
					Leave for childbearing,	Reasonable amount of time	
Kentucky ¹²	Yes	ERs with 8 or more EEs	All	N/A	N/A	N/A	N/A
Louisiana ¹³	N/A	ERs with 25 or more EEs in the state	All	Unspecified	Pregnancy, birth, or related medical condition	Leave of absence for reasonable TO while the EE is disabled on account of preg., birth or related medical conditions, maximum of 4 months. Pregnancy Accom.: Leave on account of a normal preg., birth or related medical condition cannot exceed 6 weeks	No, limited by bona fide occupational qualification
Maine ¹⁴	Yes	All	All	N/A	N/A	N/A	N/A
Maryland ¹⁵	N/A	ERs with 15 or more EEs	All	Yes	Disability caused, or contributed to, by pregnancy	Changing EE's work hours, leave of absence	Yes
Michigan ¹⁶	Yes	All	All	N/A	N/A	N/A	N/A
Minnesota ¹⁷	N/A	ERs with 21 or more EEs	All	Yes, for some accoms	Health conditions related to pregnancy or birth	Breaks, leave unspecified	Yes
Montana ¹⁸	N/A	All	All	Yes	Temporary disability as a result of preg. or birth	Leave for reasonable period of time	No

Chart 1. State Pregnancy Leave & Anti-Discrimination Laws (continued)

Nevada ¹⁹	Yes	ERs with 15 or more EEs	All	N/A	N/A	N/A	N/A
New Hampshire ²⁰	N/A	ERs with 6 or more EEs	All	Not specified	Temporary physical disability resulting from preg., birth or related medical conditions	The period of time disabled, as determined by the EE's physician.	Yes
New Jersey ²¹	N/A	All	All	Yes	Women affected by preg., birth or related medical conditions	Rest, modified work schedule.	Yes
New Mexico ²²	Yes	ERs with 4 or more EEs	All	N/A	N/A	N/A	N/A
Ohio ²³	Yes	All	All	N/A	N/A	N/A	N/A
Oklahoma ²⁴	Yes	All	All	N/A	N/A	N/A	N/A
Oregon ²⁵	Yes	All	All	N/A	N/A	N/A	N/A
Rhode Island ²⁶	Yes	All	All	N/A	N/A	N/A	N/A
South Carolina ²⁷	Yes	ERs with 15 or more EEs	All	N/A	N/A	N/A	N/A
Texas ²⁸	Yes	ERs with 15 or more EEs	All	N/A	N/A	N/A	N/A
Washington ²⁹	N/A	ERs with 8 or more EEs	All	Yes, If the ER's policy for other sickness or temporary disability leaves (for both male and female EEs) requires a physician's statement to verify the leave period	Sick or temporarily disabled by pregnancy or birth	The period of time that she is sick or temporarily disabled because of pregnancy or birth. ²	No
West Virginia ³⁰	N/A	ERs with 12 or more EEs	All	Yes	Known limitations relating to preg., birth or related medical conditions	Unspecified	Yes
Wisconsin ³¹	Yes	All	All	N/A	N/A	N/A	N/A

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References

- Anti-Discrimination plus Leave Laws, as set forth in this chart, include laws that prohibit discrimination against pregnant women, and require an employer to apply the same benefits, terms, and conditions to pregnancy, birth, recovery or associated conditions as applied to other temporary disabilities or impairments. Individual laws may vary; please consult the language of the statute for further details.
- The statutes cited often list potential accommodations. However, all indicate that the enumerated accommodations are not the only accommodations. Therefore, even if the statute does not specify leave or time-off as an accommodation, it is likely that such an accommodation would be available if appropriate under the circumstances.
- Cal. Code Regs. tit.2, § 11049 (2013); Cal. Gov't Code § 12945 (2012).
- Ct Code 46a – 51.
- 19 Del. Code Ann. §710.
- Protecting Pregnant Workers Fairness Act of 2014, B20-0769 (awaiting Congressional Review, as of November 20, 2014).
- D.C. Code § 2 – 1401.05
- Haw. Code R. § 12-46-107, 108(1990).
- 775 Ill. Comp. Stat. 5/2-102.
- Iowa Code § 216.6(2)(e) (2011).
- Kan. Stat. Ann. § 44-1009; Kan. Admin. Regs. § 21-32-6(d).
- KY Rev. Stat. Sec. 344.030(8).
- La. Rev. Stat. § 23:341, et. seq. (1997).
- 5 M.R.S.A. §4572-A(3).
- Md. Code Ann., State Gov't § 20–609 (2013).
- MI Stat. § Section 37.2202.
- Minnesota Women's Economic Security Act, Minn. Stat. § 181.9414.
- Montana Maternity Leave Act, Mont. Code Ann. § 49-2-310.
- Nev. Rev. Stat. § 613.335.
- N.H. Rev. Stat. Ann. § 354-A:7(VI)(b) (2011).
- New Jersey Pregnant Workers Fairness Act, N.J. Stat. Ann. § 10:5 – 12(s) (2013).
- N.M. Code R. 9.1.1.7(HH)(2).
- Ohio Rev. Code Ann. § § 4112.01(b) and 4112.02(a).
- Okla. Stat. Ann. § 25 -1301-1302.
- Or. Rev. Stat. Ann. § 659A.029.
- R.I. Gen. Laws § 28-5-7.
- S.C. Code Ann. § 1-13-80; S.C. Code Ann. § 1-13-30.
- Tex. Labor Code § 21.106.
- Wash. Rev. Code § 49.60.010, et. seq.; Wash. Admin. Code § 162-30-020.
- West Virginia Pregnant Workers' Fairness Act; W. Va. Code R. §5-11B-1, et. seq.; 16 H.B. 4284, 81st Leg., 1st Sess. (W.Va. 2014).
- Wis. Stat. §111.36(1)(c). ●