

EMPLOYMENT

FACT SHEET

Pregnancy Accommodations in the States

February 2016

Fifteen states and the District of Columbia have passed laws to explicitly grant pregnant employees the right to reasonable accommodations at work. Ten of these laws have been passed since 2013, all with bipartisan support, and in the majority of cases with unanimous or near-unanimous support. Although the details of the laws vary from state to state, they share a core principle: a pregnant worker with a medical need for accommodation should not be pushed out of work when she can be reasonably accommodated without imposing an undue hardship on the employer. These laws affirm that no one should be forced to choose between the health of her pregnancy and her paycheck.

Alaska

- Applies to state employers that employ at least 21 employees.
- Requires transfer of a pregnant public employee to a less strenuous or hazardous available position for which she is qualified in the same division, when recommended by a licensed health care provider.¹

California

- Applies to all public employers and to all private employers with at least 5 employees.
- Requires the provision of reasonable accommodations for conditions related to pregnancy, childbirth, or related medical conditions when an employee requests an accommodation based on the advice of a health care provider.
- Requires employer to allow transfer to less strenuous or hazardous position where request is reasonable and stems from the advice of health care provider.²

Connecticut

- Applies to all employers with at least 3 employees.
- Requires reasonable efforts to transfer a pregnant employee to an available position if the employer or employee reasonably believes that the continued employment in her current position may cause injury to the employee or the fetus.³

Delaware (passed unanimously in 2014)

- Applies to all employers with at least 4 employees.
- Requires provision of reasonable accommodations to employees with known limitations related to pregnancy, childbirth, or related conditions, unless this would impose an undue hardship on the employer.⁴

District of Columbia (passed unanimously in 2014)

- Applies to all employers.
- Requires reasonable accommodations to employees



with known limitations related to pregnancy, childbirth, related medical conditions, or breast feeding, unless providing such accommodation would impose an undue hardship on the employer.⁵

Hawaii

- Applies to all employers.
- Requires provision of reasonable accommodations to employees affected by disability due to pregnancy, childbirth, or related medical conditions.⁶

Illinois (passed unanimously in 2014)

- Applies to all employers.
- Requires the provision of reasonable accommodations to employees for medical or common conditions related to pregnancy or childbirth if an employee requests this, unless the accommodation would impose an undue hardship on the employer.
- Peace officers and firefighters who are pregnant shall be temporarily transferred to a less-strenuous or hazardous position, if they request a transfer based on the advice of their health care provider and if the request can be reasonably accommodated.⁷

Louisiana

- Applies to employers with at least 25 employees.
- Prohibits employers who have policy, practice, or a CBA requiring or authorizing transfer of temporarily disabled employees to less strenuous or hazardous positions for the duration of the disability from refusing to transfer a pregnant employee who so requests.
- Requires transfer of a pregnant employee to a less strenuous or hazardous position for which she is qualified if she requests this based on advice of her physician and if the transfer can be reasonably accommodated by the employer.⁸

Maryland (passed with bipartisan support in 2013)

- Applies to all employers with at least 15 employees.
- Requires exploration of all possible means of providing a reasonable accommodation that does not impose an undue hardship on the employer for an employee who requests it for a disability caused or contributed to by pregnancy.

- Requires transfer of a pregnant employee to a less strenuous or hazardous available position for which she is qualified if she requests this with the advice of her health care provider and if the transfer can be reasonably accommodated by the employer.⁹

Minnesota (passed with bipartisan support in 2014)

- Applies to all employers with at least 21 employees at any one site.
- Requires reasonable accommodations for health conditions related to pregnancy or childbirth if no undue hardship on operation of business. Reasonable accommodations may include temporary transfer to a less strenuous or hazardous position for the duration of the pregnancy, if requested.¹⁰

Nebraska (passed with no dissenting votes in 2015)

- Applies to all employers with at least 15 employees.
- Requires employer to accommodate physical limitations arising out of pregnancy; accommodations include sitting, more frequent or longer breaks, periodic rest, assistance with manual labor, job restructuring, light-duty assignments, modified work schedules, temporary transfers to less strenuous or hazardous work, time off to recover from child birth, or break time and appropriate facilities for breast feeding or expressing breast milk. It does not require any accommodation that requires significant difficulty or expense, thereby posing an undue hardship.¹¹

New Jersey (passed with one dissenting vote in 2014)

- Applies to all employers.
- Requires employers to provide reasonable accommodations for an employee's needs related to pregnancy, childbirth, or related medical conditions, including recovery from childbirth, absent undue hardship.¹²

New York (passed with no dissenting votes in 2015, awaiting governor's signature)

- Applies to all employers with at least four employees.
- Requires reasonable accommodations for employees who have temporary medical conditions related to pregnancy or childbirth that inhibit the exercise of normal bodily function, or are otherwise medically demonstrable, absent undue hardship to the employer.¹³

North Dakota (passed with one dissenting vote in 2015)

- Applies to all employers.
- Requires reasonable accommodations for employees who have limitations in their ability to work stemming from pregnancy, childbirth, or disabilities related to pregnancy or childbirth. Employers are not required to provide an accommodation that disrupts or interferes with the employer's normal operations, threatens anyone's health or safety, contradicts a business necessity of the employer, or imposes an undue hardship on the employer, taking into account the size of the employer's business, the type of business, the financial resources of the employer and the estimated cost and extent of the accommodation.¹⁴

Rhode Island (passed with no dissenting votes in 2015)

- Applies to all public employers and all private employers with at least four employees.
- Requires reasonable accommodations—including leave—for employees who have limitations in their ability to work stemming from pregnancy, childbirth, or a related medical condition, explicitly including the need to express breast milk, absent undue hardship to the employer. Employers are also required to provide written notice of employees' rights to reasonable accommodations.¹⁵

Texas

- Applies to all municipal and county employers.
- Requires employer to make a reasonable effort to accommodate an employee who is determined by a physician to be partially physically restricted by a pregnancy. In addition, if an employee's physician certifies that the employee cannot perform her duties as a result of her pregnancy, the employee can receive an alternative temporary work assignment if such an assignment is available in the same office.¹⁶

West Virginia (passed unanimously in 2014)

- Applies to all public employers and all private employers with at least 12 employees.
- Requires reasonable accommodations for employees who have limitations in their ability to work documented by a health care provider that stem from pregnancy, childbirth, or related medical conditions, unless the accommodation would impose an undue hardship on the employer.¹⁷

Several municipalities have also adopted pregnant workers accommodations laws, all since 2013: New York City, NY (unanimously);¹⁸ Philadelphia (no dissenting votes)¹⁹ and Pittsburgh (unanimously),²⁰ PA; and Providence (unanimously)²¹ and Central Falls,²² RI.

¹ ALASKA STAT. § 39.20.520 (1992).

² CAL. GOV'T CODE § 12945(A)(3)(A)-(C) (1999).

³ CONN. GEN. STAT. § 46A-60(A)(7) (1979).

⁴ DEL. CODE ANN. TIT. 19, § 711(A) (2015).

⁵ D.C. CODE § 32-1231.02 (2014).

⁶ HAW. REV. STAT. § 12-46-107 (1990).

⁷ 2014 ILL. COMP. STAT. ANN. 5/2-102(J) (WEST 2015).

⁸ LA. REV. STAT. ANN. § 23:342 (1997).

⁹ MD. CODE ANN., STATE GOV'T § 20-609 (WEST 2013).

¹⁰ MINN. STAT. § 181.9414 (2014).

¹¹ NEB. REV. STAT. § 48-1107.02(2) (2015).

¹² N.J. REV. STAT. § 10:5-12(s) (2014).

¹³ New York's Senate Bill 8 to accommodate pregnant workers passed through both houses of the legislature by May of 2015, but as of August 2015 is awaiting the Governor's signature (2015 N.Y. SB No. 8, 238th Leg., amending N.Y. EXEC. LAW § 292 (McKinney 2014) & N.Y. EXEC. LAW § 296 (McKinney 2014).

¹⁴ 2015 N.D. LAWS CH. 121 (2015) (2015 N.D. HB 1463, 64th Leg., amending N.D. CENT. CODE § 14-02.4-03).

¹⁵ R.I. GEN. LAWS ANN. § 28-5-7.4 (2015).

¹⁶ TEX. LOC. GOV'T. CODE § 180.004.

¹⁷ W. VA. CODE § 5-11B-2 (2014).

¹⁸ N.Y. ADMIN. CODE 8-107(22) (2013).

¹⁹ Phila. Code § 9-1128 (2014).

²⁰ Pittsburgh Admin. Code art. VII, § 161.44 (2014).

²¹ Providence Ordinance No. 2014-10 (2014) (to be codified at Providence Code of Ordinances §§ 16-57).

²² Central Falls Code of Ordinances, art. I, § 12-5 (2014).