

## What You Need to Know About the Pregnant Workers Fairness Act Before It Goes into Effect on June 27, 2023

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*Andrea Rodriguez*

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The federal Pregnant Workers Fairness Act (PWFA) is a landmark piece of legislation requiring employers with fifteen or more employees to provide reasonable accommodations to pregnant workers, much as they are required to do under the Americans with Disabilities Act (ADA).

Under the ADA, employers are required to provide reasonable accommodations to qualified individuals with disabilities. Pregnancy itself is typically not considered a disability under the ADA. However, if a pregnant worker has a pregnancy-related condition that qualifies as a disability under the ADA (such as gestational diabetes or preeclampsia), then the employer is required to provide reasonable accommodations, unless doing so would cause undue hardship to the employer. This means that, under the ADA, employers are not required to make accommodations for “normal” pregnancies.

In contrast, the PWFA requires employers to provide reasonable accommodations to all pregnant workers, regardless of whether their pregnancy has led to a condition that would qualify as a disability under the ADA. This can include modifications to work conditions or duties to allow the worker to continue to perform their job during pregnancy. The PWFA also provides protections against retaliation for pregnant workers who request such accommodations and prohibits employers from forcing pregnant workers to take leave if another reasonable accommodation can

### **Attorneys**

Andrea M. Rodriguez

### **Practice Areas**

ERISA, Disability and Leave Laws

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be provided. The only exception is if the accommodation would impose an "undue hardship" on the operation of the employer's business, a standard that is intentionally high to ensure pregnant workers receive the protections they need. The PWFA also protects pregnant employees from retaliation, or adverse action, in response to their request for reasonable accommodations.

In order to comply with the June 27, 2023, PWFA effective date, employers will need to reassess their policies and practices. This will involve implementing necessary accommodations and providing appropriate training to managers and supervisors to ensure compliance with the new law and revising policies to reflect these changes. If you have questions about the PWFA or need assistance revising your policies to comply with the PWFA, contact your servicing Laner Muchin attorney.