

Pregnant Workers' Fairness Act

Under the Act, covered employers will be required to provide reasonable accommodation to employees or applicants for employment for limitations related to pregnancy, childbirth or related medical conditions. The Act allows employees to request modified duties and other accommodations as long as they do not place undue hardship on employers. It allows such accommodations as bathroom breaks and assistance with manual labor. The Act also requires employers to provide nursing women time to express breast milk. It bars employers from turning away a qualified job applicant out of concern she might be asked to provide some accommodations for her pregnancy.

Submitted as:

West Virginia

[HB 4284](#)

Status: Signed into law on March 21, 2014.

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Short Title.*]
2 This article may be cited as the Pregnant Workers Fairness Act.
3
4 Section 2. [*Nondiscrimination with regard to reasonable accommodations related to pregnancy.*]
5 It shall be an unlawful employment practice for a covered entity to:
6 (1) Not make reasonable accommodations to the known limitations related to the pregnancy,
7 childbirth, or related medical conditions of a job applicant or employee, following delivery
8 by the applicant or employee of written documentation from the applicant's or employee's
9 health care provider that specifies the applicant's or employee's limitations and suggesting
10 what accommodations would address those limitations, unless such covered entity can
11 demonstrate that the accommodation would impose an undue hardship on the operation of
12 the business of such covered entity;
13 (2) Deny employment opportunities to a job applicant or employee, if such denial is based on the
14 refusal of the covered entity to make reasonable accommodations to the known limitations
15 related to the pregnancy, childbirth, or related medical conditions of an employee or
16 applicant;
17 (3) Require a job applicant or employee affected by pregnancy, childbirth, or related medical
18 conditions to accept an accommodation that such applicant or employee chooses not to
19 accept; or
20 (4) Require an employee to take leave under any leave law or policy of the covered entity if
21 another reasonable accommodation can be provided to the known limitations related to the
22 pregnancy, childbirth, or related medical conditions of an employee.
23
24 Section 3. [*Remedies and enforcement.*]
25 (a) The powers, procedures, and remedies provided in [Insert citation.] to the [Commission],
26 the Attorney General, or any person, alleging a violation of the [West Virginia Human

1 Rights Act] shall be the powers, procedures, and remedies this article provides to the
2 Commission, the Attorney General, or any person, respectively, alleging an unlawful
3 employment practice in violation of this article against an employee or job applicant.

- 4 (b) No person shall discriminate against any individual because such individual has opposed
5 any act or practice made unlawful by this article or because such individual made a
6 charge, testified, assisted, or participated in any manner in an investigation, proceeding,
7 or hearing under this article. The remedies and procedures otherwise provided for under
8 this section shall be available to aggrieved individuals with respect to violations of this
9 subsection.

10
11 Section 4. [*Rule-making.*]

12 Not later than two years after the date of enactment of this article, the [Commission] shall
13 propose legislative rules to carry out this article. Such rules shall identify some reasonable
14 accommodations addressing known limitations related to pregnancy, childbirth, or related
15 medical conditions that shall be provided to a job applicant or employee affected by such known
16 limitations unless the covered entity can demonstrate that doing so would impose an undue
17 hardship.

18
19 Section 5. [*Definitions.*]

20 As used in this article:

- 21 (1) “Attorney General” means the [West Virginia] Attorney General;
22 (2) “Commission” means the [West Virginia] Human Rights Commission;
23 (3) “Covered entity” has the meaning given the word employer in [Insert citation.];
24 (4) “Person” has the meaning given the word in [Insert citation.]; and
25 (5) “Reasonable accommodation” and “undue hardship” have the meanings given those terms in
26 section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111) and shall be
27 construed as such terms have been construed under such Act and as set forth in the rules
28 required by this article.

29
30 Section 6. [*Relationship to other laws.*]

31 Nothing in this article shall be construed to invalidate or limit the remedies, rights, and
32 procedures that provides greater or equal protection for workers affected by pregnancy,
33 childbirth, or related medical conditions.

34
35 Section 7. [*Reports.*]

36 The [Commission] shall annually on October 1 of each year report to the [Joint Committee on
37 Government and Finance] on the number of complaints filed under this article during the
38 previous year and their resolution.