



December 22, 2024

Pregnancy Discrimination

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Pregnancy Discrimination

Reference Number: CTAS-1056

The federal Pregnancy Discrimination Act (PDA) is an amendment to Title VII that declares discrimination on the basis of pregnancy, childbirth or related medical conditions to be unlawful sex discrimination under Title VII. Women affected by pregnancy or related conditions must be treated the same as other applicants or employees with similar conditions, abilities or limitations. An employer cannot refuse to hire a pregnant applicant as long as she is able to perform the major functions of the job, and the employer cannot refuse to hire the person because of the prejudices of the employer or those of clients, customers or co-workers.

Pregnancy cannot be singled out for special procedures. The pregnant employee must be treated the same as any other employee in a similar situation. For example, if the employer requires a doctor's statement prior to granting sick leave, the employer may require a pregnant employee to provide a doctor's statement if the employee requests sick leave.

If a pregnant employee is temporarily unable to perform her job, the employer must treat her the same as any other temporarily disabled employee (e.g., modified tasks, alternative assignments, disability leave, or leave without pay, if the employer provides these benefits to other workers who are temporarily disabled).

Pregnant employees must be permitted to work as long as they are able to perform their jobs. Employers cannot make pre-determined rules requiring employees to remain off work a specified period of time either before or following childbirth. Employers must hold open a job for pregnancy-related absences for as long as the employer would for employees with other kinds of temporary disabilities.

Health insurance must cover pregnancy-related conditions on the same basis as other medical conditions. No increased or additional deductible can be imposed. Also, pregnancy-related benefits cannot be limited to married employees.

The Pregnancy Discrimination Act is administered by the U. S. Equal Employment Opportunity Commission (EEOC). See EEOC Facts about Pregnancy Discrimination.

Pregnant Workers Fairness Act

State Level

Effective October 1, 2020, state law found at T.C.A. § 50-10-101 *et seq.*, the Tennessee Pregnant Workers Fairness Act, requires employers with more than 15 employees to make reasonable accommodations for medical needs arising from pregnancy, childbirth, or related medical conditions of employees or applicants for employment. "Reasonable accommodation" may include: making existing facilities used by employees readily accessible and usable; providing more frequent, longer, or flexible breaks; providing a private place, other than a bathroom stall, for the purpose of expressing milk; modifying food or drink policy; providing modified seating or allowing the employee to sit more frequently if the job requires standing; providing assistance with manual labor and limits on lifting; authorizing a temporary transfer to a vacant position; providing job restructuring or light duty, if available; acquiring or modifying of equipment, devices, or an employee's work station; modifying work schedules; and allowing flexible scheduling for prenatal visits. The employer may request medical certification if it is required of other employees with medical conditions.

Federal Level

The Pregnant Workers Fairness Act (PWFA) went into effect on June 27, 2023. The law requires covered employers, which include counties, to provide "reasonable accommodations" to a qualified employee's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation would cause an undue hardship for the employer. While existing laws make it illegal to take an adverse action or discriminate against a person based on pregnancy, childbirth, or related medical conditions, the PWFA only applies to accommodations. Further, the PWFA does not replace federal, state, or local laws that are more protective of a qualified employee affected by pregnancy, childbirth, or related medical conditions. 42 U.S.C.A. § 2000gg – 1.

The term "qualified employee" includes an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the job, except that an employee or applicant shall be considered qualified if the following conditions are met: 1) any inability to perform an essential function is for a temporary period; 2) the essential function could be performed in the near future; and 3) the inability to perform the essential function can be reasonably accommodated. 42 U.S.C.A. § 2000gg.

The terms "reasonable accommodation" and "undue hardship" have the same meaning as defined under

section 101 of the Americans with Disabilities Act (42 U.S.C.A. § 12111).

The FWPA also prohibits covered employers from:

- Requiring a qualified employee to accept an accommodation without an interactive discussion
- Denying a qualified employee an employment opportunity based on the person's need for a reasonable accommodation.
- Requiring a qualified employee to take leave, whether paid or unpaid, if another accommodation could be made that would allow the employee to keep working; or
- Taking an adverse action against a qualified employee for requesting or using reasonable accommodation.

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing and issuing rules for the implementation of the PWFA. The rules must include examples of reasonable accommodations to address known limitations related to pregnancy, childbirth, and related medical conditions. The final rules will be available before December 29, 2023. More information and resources about the PWFA are available at EEOC/What You Should Know About the PWFA.

Source URL: <https://www.ctas.tennessee.edu/eli/pregnancy-discrimination>