

Reasonable Accommodations for Pregnant Workers: State and Local Laws

SEPTEMBER 2020

Thirty-one states, including the District of Columbia, and four cities have passed laws requiring some employers to provide reasonable accommodations to pregnant workers.

State Laws

Alaska

Public employers are required to transfer a pregnant employee to a position that is less strenuous or hazardous if the employee requests the transfer, is qualified for the position and the transfer is recommended by a licensed health care provider.¹ The employer must provide the employee with at least the same compensation as the employee's original position or the transfer position, whichever is less.

California

Employers must grant an employee's request for reasonable accommodations for a condition related to pregnancy, childbirth or related medical conditions, upon the advice of the employee's physician. The law also prohibits employers from retaliating against employees for exercising their rights under the law. Employers must provide reasonable advance notice of these rights to employees.² The law applies to employers with five or more employees and protects workers regardless of tenure and number of hours worked.³

Colorado

Employers must make reasonable accommodations upon request for an employee's pregnancy-related health condition or physical recovery from childbirth, unless doing so would impose an undue hardship on the employer. The accommodation may include a transfer to a less strenuous or hazardous position if available. Employers may not deny employment opportunities to a pregnant or recovering employee because of the need to provide a reasonable accommodation, require a pregnant or recovering employee to accept an accommodation or force a pregnant or recovering employee to take leave if another reasonable accommodation can be provided. Employers must provide written notice of these rights to new and existing employees. Employers must also conspicuously post notice of these rights in their place of business in an area accessible to employees. The law applies to employers with one or more employees and protects workers regardless of tenure and number of hours worked.⁴

Connecticut

Employers must make a reasonable effort to transfer a pregnant employee to a temporary position if the employee's current position could cause injury to the employee or the health of the pregnancy. Employers must inform employees by any reasonable means that the employee must give written notice of her pregnancy in order to be eligible for such a transfer. The law applies to employers with three or more employees and protects workers regardless of tenure and number of hours worked.⁵

Delaware

Employers must make reasonable accommodations for an employee's known limitations related to pregnancy, childbirth or related conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must provide written notice of these rights to new and existing employees and to any employee who notifies the employer of a pregnancy. Employers must also conspicuously post notice of these rights in their place of business in an area accessible to employees. The law applies to employers with four or more employees and protects workers regardless of tenure and number of hours worked.⁶

District of Columbia

Employers must make reasonable accommodations for an employee's known limitations related to pregnancy, childbirth and related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must provide written notice of these rights to new and existing employees and to any employee who notifies the employer of a pregnancy. Employers must also conspicuously post notice of these rights in their place of business in an area accessible to employees. The law protects workers regardless of tenure or number of hours worked and is silent as to the number of employees an employer must have in order to be covered.⁷

Hawaii

Employers are required to make reasonable accommodations for a pregnant employee with a disability related to pregnancy, childbirth or related medical conditions. The law also prohibits employers from retaliating against employees for exercising their rights under the law. The law applies to employers with one or more employees and protects workers regardless of tenure and number of hours worked.⁸

Illinois

Employers must make reasonable accommodations for an employee's medical or common condition related to pregnancy or childbirth if the employee requests such an accommodation, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must post notice of these rights in a conspicuous location on the employer's premises where notices to employees are customarily posted and include it in any employee handbook.⁹ The law applies to employers of any size and protects workers regardless of tenure and number of hours worked.

Kentucky

Employers must make reasonable accommodations for an employee's limitations related to pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless such an accommodation would impose an undue hardship on the employer's program, enterprise or business.¹⁰ Employers may not require an employee to take leave from work if a reasonable accommodation can be provided. Employers must post written notice of these rights in a conspicuous place that is accessible to employees. The law applies to employers with 15 or more employees during the year, and protects workers regardless of tenure and number of hours worked.¹¹

Louisiana

Employers who have a policy, practice or collective bargaining agreement requiring or authorizing the transfer of temporarily disabled employees to a less strenuous or hazardous position must also grant a temporary transfer to a pregnant employee, upon request and with the advice of the employee's physician, if the employee can be reasonably accommodated. The law applies to employers with 25 or more employees and protects workers regardless of tenure and number of hours worked.¹²

Maine

Employers must provide reasonable accommodations for a limitation of an employee's ability to perform the functions of a job caused by pregnancy, childbirth or a medical condition related to pregnancy or childbirth, unless doing so would impose an undue hardship on the employer. Employers may not treat a pregnant person, or someone suffering from a medical condition related to pregnancy, in a different manner from other employees who are not able to work because of other disabilities or illnesses.¹³

Maryland

Employers must explore all possible means of reasonably accommodating a disability caused or contributed to by pregnancy if an employee requests a reasonable accommodation, unless doing so would impose an undue hardship on the employer. The law also requires an employer to transfer an employee to a less strenuous or less hazardous position for a specified period of

time in some circumstances, if the employee requests the transfer. Employers must post information on these rights in a conspicuous location and include it in any employee handbook.¹⁴ The law applies to employers with 15 or more employees during the year, and protects workers regardless of tenure and number of hours worked.

Massachusetts

Employers must provide reasonable accommodations for an employee's pregnancy or pregnancy-related condition, including the need to express breast milk, unless doing so would impose an undue hardship.¹⁵ Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require an employee to accept an accommodation, require an employee to take leave if another reasonable accommodation can be provided, or refuse to hire a person because of the person's pregnancy or related condition. The law also prohibits employers from taking adverse action against an employee who requests or uses a reasonable accommodation. Employers must provide written notice to employees in a handbook or by other means to new and existing employees. The law applies to employers with six or more employees and protects employees regardless of tenure and number of hours worked.¹⁶

Minnesota

Employers must provide reasonable accommodations to an employee for health conditions related to pregnancy or childbirth if an employee requests such an accommodation with the advice of a health care provider, unless doing so would impose an undue hardship on the employer. Employers may not require a pregnant employee to take leave or accept an accommodation. The Minnesota Division of Labor Standards and Apprenticeship shall make available, upon request, a poster concerning these rights for posting on an employer's premises.¹⁷ The law applies to employers with 21 or more employees at one site or more and protects workers regardless of tenure and number of hours worked.

Nebraska

Employers must provide reasonable accommodations for the known limitations of an individual who is pregnant, has given birth or has related medical conditions, unless doing so would impose an undue hardship on the employer.¹⁸ Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation or require a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must post notice of these rights in a conspicuous location.¹⁹ The law applies to employers with 15 or more employees in the state and protects employees regardless of tenure and number of hours worked.²⁰

Nevada

Employers must provide reasonable accommodations for an employee's pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship.²¹ Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require an employee to

accept an accommodation, or require an employee to take leave if another reasonable accommodation exists. The law also prohibits employers from taking adverse action against an employee who requests or uses a reasonable accommodation. Employers must provide written or electronic notice to employees, to new employees and employees who notify a supervisor that they are pregnant, and must conspicuously post the notice at the place of business in a place accessible to employees. The law applies to employers with 15 or more employees and protects employees regardless of tenure and number of hours worked.

New Jersey

Employers must provide reasonable accommodations to women affected by pregnancy, childbirth or related medical conditions, including recovery from childbirth, if the employee requests the accommodation based on the advice of a physician, unless doing so would impose an undue hardship on the employer.²² Employers must post information about these rights in places easily visible to all employees and applicants.²³ The law applies to all employers of any size in the state and protects employees regardless of tenure and number of hours worked.²⁴

New Mexico

Employers must provide reasonable accommodations for an employee or job applicant with a need arising from pregnancy, childbirth or condition related to pregnancy or childbirth. An employer may not require an employee to take paid or unpaid leave if another accommodation is available. The law applies to employers with four or more employees.²⁵

New York

Employers must provide reasonable accommodations to the known pregnancy-related conditions of an employee, unless doing so would impose an undue hardship on the employer.²⁶ Employers must post information about these rights in a conspicuous, easily accessible and well-lit location that is customarily frequented by employees.²⁷ The law applies to employers with four or more employees in the state and protects employees regardless of tenure and number of hours worked.²⁸

North Carolina

State agency employers must provide workplace adjustments upon request to employees who are affected by pregnancy, childbirth or related medical conditions, unless doing so would impose an undue hardship.²⁹ A workplace adjustment may include but is not limited to a change in workstation and seating, modified work assignments, more frequent or longer breaks, assistance with manual labor, modified work schedules, adjustments in uniforms or dress codes, properly sized safety gear, temporary transfers, access to food and drink at workstations, closer parking and access to appropriate, non-bathroom lactation accommodations.³⁰ State agencies must post written notice of the rights and physically display them in a conspicuous area in each office maintained by a state agency. The law applies to all state agencies, and state agencies shall take actions to foster contractor and subcontractor compliance with this policy.³¹

North Dakota

Employers must provide reasonable accommodations to pregnant employees, unless doing so would unduly disrupt or interfere with the employer's normal operations, threaten the employee's health or safety, contradict a business necessity or impose an undue hardship on the employer.³² The law is silent as to employers' requirements to give notice or post information about these rights. The law applies to employers of any size in the state and protects employees regardless of tenure and number of hours worked.³³

Oregon

Employers must provide reasonable accommodation to employees for known limitations related to pregnancy, childbirth or related medical conditions, including but not limited to lactation, unless the employer can demonstrate that such an accommodation would impose an undue hardship on the employer's operations.³⁴ Employers may not deny employment opportunities to applicants or employees due to pregnancy or a related medical condition, require an applicant or employee to accept a reasonable accommodation or require an employee to take family leave. It is unlawful for an employer to retaliate against or take an adverse employment action against an employee or applicant because a reasonable accommodation was inquired about, requested or used.³⁵ Employers must provide written notice of these rights to new and existing employees and conspicuously post notice of these rights in their place of business in an area accessible to all employees.³⁶ The law applies to any employer with six or more employees.³⁷

Rhode Island

Employers must provide reasonable accommodations to employees, upon request, for conditions related to pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation or force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must provide written notice of these rights to new and existing employees and conspicuously post notice of these rights in their place of business in an area accessible to employees.³⁸ The law applies to any employer with four or more employees within the state and protects employees regardless of tenure and number of hours worked.³⁹

South Carolina

Employers must provide reasonable accommodations for medical needs arising from pregnancy, childbirth or related medical conditions, unless the employer can demonstrate that doing so would impose an undue hardship on the business. Employers may not deny employment opportunities to applicants or employees based on the need for an accommodation due to pregnancy or a related medical issue, require a pregnant applicant or employee to accept an accommodation, or require an employee to take leave if another reasonable accommodation can be provided. It is unlawful for an employer to take any adverse action against an employee for requesting or using a reasonable accommodation. Employers must provide written notice of these rights to new and existing employees. Employers must also conspicuously post notice of

these rights in their place of business in an area accessible to employees.⁴⁰ The law applies to all employers who have 15 or more employees.⁴¹

Tennessee

Employers must provide reasonable accommodations for medical needs arising from pregnancy, childbirth or related medical conditions, unless the employer can demonstrate that the accommodation would impose an undue hardship on the business. Employers cannot require an employee to take leave if another reasonable accommodation can be provided, and cannot take adverse action against an employee for using a reasonable accommodation. The law applies to all employers who have 15 or more employees.⁴²

Texas

A county or municipal employer is required to make a reasonable effort to accommodate an employee who is determined by a physician to be partially physically restricted by a pregnancy.⁴³ The law applies to any county or municipal employer and protects employees regardless of tenure and number of hours worked.

Utah

Employers must provide reasonable accommodations to employees, upon request, for pregnancy, childbirth, breastfeeding or related conditions, unless doing so would impose an undue hardship on the employer's operations. Employers may not force an employee to terminate employment if another reasonable accommodation can be provided, or deny employment opportunities because of the need to provide a reasonable accommodation. Employers must provide notice of these rights by including them in an employee handbook or conspicuously posting notice in their place of business.⁴⁴ The law applies to public employers as well as private employers with 15 or more employees within the state and protects employees regardless of tenure and number of hours worked.⁴⁵

Vermont

Employers must provide a reasonable accommodation for an employee's pregnancy-related condition, unless it would impose an undue hardship on the employer.⁴⁶ Employers must post notice of these rights in a place conspicuous to employees on their premises. The law applies to employers that have one or more employees in the state.⁴⁷

Virginia

Employers must make reasonable accommodations to the known limitations of a person for pregnancy, childbirth or related medical conditions (including lactation), unless providing such an accommodation would impose an undue hardship on the employer.⁴⁸ Employers may not take adverse action against an employee who requests or uses a reasonable accommodation, deny an employment or promotion opportunity, or force an employee to take leave if another reasonable accommodation is available.⁴⁹ Employers must provide notice of these rights by including them in any employee handbook and posting them in a conspicuous location. The law applies to employers with five or more employees.⁵⁰

Washington

Employers must make reasonable accommodations for an employee's pregnancy or pregnancy-related condition, unless doing so would impose an undue hardship on the employer's operations.⁵¹ Employers may not deny employment opportunities to an employee because of the need to provide a reasonable accommodation, require an employee to take leave if another reasonable accommodation can be provided or take adverse action against an employee who requests, declines or uses an accommodation. The law applies to employers with 15 or more employees.⁵²

West Virginia

Employers must make reasonable accommodations for employees who have limitations 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. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided.⁵³ The law applies to any employer with 12 or more employees within the state and protects employees regardless of tenure and number of hours worked.⁵⁴

Local Laws

Central Falls, Rhode Island

Employers must reasonably accommodate an employee's condition related to pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may neither deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation nor force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must provide written notice of these rights to new and existing employees.⁵⁵ The law protects employees regardless of tenure and number of hours worked and is silent as to the number of employees an employer must have in order to be covered.

New York, New York

Employers must reasonably accommodate the needs of an employee for pregnancy, childbirth or related medical conditions, unless doing so would impose an undue hardship on the employer.⁵⁶ Employers must provide written notice to employees about these rights.⁵⁷ The law applies to employers with four or more employees and protects employees regardless of tenure and number of hours worked.⁵⁸

Philadelphia, Pennsylvania

Employers must provide reasonable accommodations to employees for needs related to pregnancy, childbirth or related medical conditions, provided the employee requests such

accommodation, unless doing so would impose an undue hardship on the employer. Employers must provide written notice to employees of these rights.⁵⁹ The law applies to any employer in Philadelphia who employs at least one non-relative and protects workers regardless of tenure and number of hours worked.⁶⁰

Providence, Rhode Island

Employers must provide reasonable accommodations to employees, upon request, for conditions related to pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided.⁶¹ Employers must provide written notice of these rights to new and existing employees and post notice in a conspicuous place on their premises.⁶² The law applies to any employer with seven or more employees within the city and protects employees regardless of tenure and number of hours worked.⁶³

-
- ¹ Alaska Stat. § 39.20.520 (2013).
- ² Cal. Code Regs. tit.2, § 11049 (2013).
- ³ Cal. Gov't Code §§ 12945, 12926 (West 2012).
- ⁴ 2016 Colo. Legis. Serv. Ch. 207 (to be codified at Colo. Rev. Stat. §§ 24-34-401, 24-34-402.3); Colo. Rev. Stat. § 24-34-401 (2016).
- ⁵ Conn. Gen. Stat. §§ 46a-60(a)(7), 46a-51 (2011).
- ⁶ Del. Code tit. 19, §§ 710, 711, 716 (2014).
- ⁷ Protecting Pregnant Workers Fairness Act of 2014, D.C. Act. 20-458 (2014).
- ⁸ Haw. Code R. § 12-46-107 (1990).
- ⁹ 775 Ill. Comp. Stat. 5/2-101, 102 (2014).
- ¹⁰ KRS 344.030 (2019)
- ¹¹ KRS 344.030 § 3(a) (2019)
- ¹² La. Rev. Stat. §§ 23:342, 23-341 (1997).
- ¹³ Me. Rev. Stat. Ann. tit. 5, §4571-A 2-A (2019).
- ¹⁴ Md. Code, State Gov't §§ 20-609, 20-601 (2013).
- ¹⁵ H. 3680, 109th Leg., Reg. Sess. (Mass. 2017) (to be codified at Mass. Gen. Laws ch. 151B, § 4(1E) (2017)).
- ¹⁶ Mass. Gen. Laws ch. 151B, § 1 (2017).
- ¹⁷ Minn. Stat. §§ 181.940, 181.9414, 181.9436 (2014).
- ¹⁸ Neb. Rev. Stat. §§ 48-1107.01(2) , 48-1107.02(1)(e) (2015).
- ¹⁹ Neb. Rev. Stat. § 48-1121 (2015).
- ²⁰ Neb. Rev. Stat. § 48-1102 (2015).
- ²¹ S.B. 253, 79th Leg., Reg. Sess. (Nev. 2017) (to be codified at Nev. Rev. Stat. §§ 613.335 et seq. (2017)).
- ²² N.J. Stat. § 10:5-12(s) (2013).
- ²³ N.J. Admin. Code § 13:8-1.2 (2006).
- ²⁴ N.J. Stat. Ann. § 10:5-5 (2010).
- ²⁵ N.M.S.A. §§ 28-1-2, -7.
- ²⁶ 2015 N.Y. Sess. Laws Ch. 369 (to be codified at N.Y. Exec. Law §§ 292, 296).
- ²⁷ N.Y. Comp. Codes R. & Regs. tit. 9, §§ 466.1(a), (b) (2015).
- ²⁸ N.Y. Exec. Law §§ 292(5), (6) (2015).
- ²⁹ N.C. Exec. Order No. 82 (2018).
- ³⁰ N.C. Exec. Order No. 82 § 2(f) (2018).
- ³¹ N.C. Exec. Order No. 82 § 4(c) & (g) (2018).
- ³² N.D. Cent. Code § 14-02.4-03(2) (2015).
- ³³ N.D. Cent. Code §§ 14-02.4-02(8), (7) (2015).
- ³⁴ H.B. 2341 § 3, 80th Leg., Reg. Sess. (Or. 2019) (to be codified at Or. Rev. Stat. § 659A).
- ³⁵ Ibid.
- ³⁶ Ibid.
- ³⁷ Ibid., § 4.
- ³⁸ R.I. Gen. Laws §§ 28-5-7.4(a)(1), (3), (2), (4) (2015).
- ³⁹ R.I. Gen. Laws §§ 28-5-6(8)(i), (7) (2015).
- ⁴⁰ S.C. Code Ann. § 1-13-80(A) (2018).
- ⁴¹ S.C. Code Ann. §1-13-30(e).
- ⁴² Tennessee Pregnant Workers Fairness Act, Pub. Ch. No. 745 (2020) (to be codified at Tenn. Code § 50-10-101 et seq.).
- ⁴³ Tex. Loc. Gov't Code §180.004 (2001).
- ⁴⁴ 2016 Utah Laws Ch. 330 (to be codified at Utah Code §§ 34A-5-106(1)(g), (7)).

⁴⁵ Utah Code §§ 34A-5-102(i), (h) (2015).

⁴⁶ H.136, 2017-2018 Leg., Reg. Sess. (Vt. 2017) (to be codified at 21 V.S.A § 495k (2017)).

⁴⁷ 21 V.S.A. § 495d(1) (2017).

⁴⁸ Va. Code Ann. § 2.2-3904 (2020).

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ S.B. 5835, 2017-2018 Leg. Reg. Sess. (Wash. 2017) (to be codified at 43.70 RCW (2017)).

⁵² *Ibid.*

⁵³ W. Va. Code §§ 5-11b-1, *et seq.* (2014).

⁵⁴ *Ibid.*; W. Va. Code § 5-11-3(d) (1998).

⁵⁵ Central Falls, R.I. Code § 12-5 (2014).

⁵⁶ N.Y. City Admin. Code § 8-107(22)(a) (2015).

⁵⁷ N.Y. City Admin. Code § 8-107(22)(b) (2015).

⁵⁸ N.Y. City Admin. Code § 8-102(5) (2015).

⁵⁹ Philadelphia, Pa., Code § 9-1128 (2014).

⁶⁰ Philadelphia, Pa., Code § 9-1102 (2014).

⁶¹ Providence, R.I., Code §§ 16-57(c)(1)(g), (b)(1)(c), (c)(1)(f) (2015).

⁶² Providence, R.I., Code § 16-84 (2015).

⁶³ Providence, R.I., Code §§ 16-54(h), (g) (2015).

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help all people meet the dual demands of work and family. More information is available at NationalPartnership.org.

© 2020 National Partnership for Women & Families. All rights reserved.