

Overview of Federal and State Laws Related to Pregnancy Discrimination

Prepared by: Tucker Anderson, Law Clerk

Office of Legislative Council

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Pregnancy Discrimination Act (PDA)

- Applies to employers of 15 or more. 42 U.S.C. § 2000e.
- An employer must **treat women affected by pregnancy in the same manner as other applicants or employees who are similar in their ability or inability to work.** 42 U.S.C. § 2000e.
 - Covers all aspects of employment, including firing, hiring, promotions, and fringe benefits.
- Under the PDA, **an employer cannot fire, refuse to hire, demote, or take any other adverse action against a woman if pregnancy was a motivating factor in the adverse employment action.** This is true **even if the employer believes it is acting in the employee's best interest.** 42 U.S.C. § 2000e-2.
 - **An employer may not discriminate against an employee or applicant based on a past pregnancy.**
 - **An employer may not discriminate based on an employee's intention or potential to become pregnant.**
 - **An employer may not discriminate against an employee because of a medical condition related to pregnancy and must treat the employee the same as others who are similar in their ability or inability to work** but are not affected by pregnancy.
- **An employer must provide the same benefits of employment to women affected by pregnancy that it provides to other persons who are similar in their ability or inability to work.**
- **Vermont's Fair Employment Practices Act** prohibits discrimination on the basis of sex, including discrimination because of pregnancy. Vermont's law **applies to all employers with one or more employees.** 21 V.S.A. § 495.

Americans with Disabilities Act (ADA)

- Applies to employers of 15 or more. 42 U.S.C. § 12111(5)(A).
- Pregnancy is not itself a disability; however, **pregnancy-related impairments may qualify as disabilities.**
 - "Disability" means (1) a **physical or mental impairment that substantially limits one or more major life activities**; (2) a **record** of such an impairment; or (3) **being regarded as having such an impairment.** 42 U.S.C. § 12102.
- An employer may not discriminate against an impaired pregnant individual, and **must provide the individual with a reasonable accommodation** if needed, **unless the accommodation would result in undue hardship.** 42 U.S.C. § 12112(a).
 - A reasonable accommodation is **a change in the workplace or manner of work that enables an individual with a disability to apply for a job, perform a job's essential functions, or enjoy equal benefits and privileges of employment.** 42 U.S.C. § 12111(9); 29 C.F.R. § 1630.2(o).

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- **Vermont's Fair Employment Practices Act** prohibits discrimination against a qualified individual with a disability. Vermont's law **applies to all employers with one or more employees**. 21 V.S.A. § 495.

The Family Medical Leave Act (FMLA)

- Applies to employers of 50 or more. 29 U.S.C. § 2611(4)(A).
- **Allows eligible employees to take up to 12 workweeks of leave** for the birth and care of the employee's newborn child and for the employee's own serious health condition. 29 U.S.C. § 2612.
- Vermont's Parental and Family Leave Act provides up to 12 weeks of leave for eligible employees during pregnancy and following the birth or adoption of a child. Vermont's law applies to **employers of 10 or more** individuals who are employed at least 30 hours per week. 21 V.S.A. §§ 470 and 472.