

House Approves Pregnant Workers Fairness Act

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The U.S. House of Representatives passed the Pregnant Workers Fairness Act (PWFA) in a 329-73 vote on Sept. 17. The Senate will now consider the bill, which, if passed, would require employers to reasonably accommodate pregnant workers and employees with pregnancy-related conditions.

The bill has bipartisan support. "No one should have to choose between financial security and a healthy pregnancy," said Rep. Bobby Scott, D-Va., on the House floor. "Unfortunately, pregnancy anti-discrimination laws need to be urgently updated to provide reasonable accommodations for workers," he said.

Rep. John Katko, R-N.Y., said, "Federal law lacks adequate protections to ensure pregnant workers are able to remain healthy in the workplace." He added that the bill "provides pregnant workers with an affirmative right to reasonable accommodations in the workplace while creating a clear and navigable standard."

[Need help with legal questions? Check out the new SHRM LegalNetwork (www.shrm.org/ResourcesAndTools/business-solutions/Pages/LegalNetwork.aspx?utm_source=shrm_article&utm_medium=shrm.org&utm_campaign=growth~legalnetwork~pressrelease)]

Rep. Virginia Foxx, R-N.C., opposed the bill (<https://republicans-edlabor.house.gov/news/documentsingle.aspx?DocumentID=407047&fbclid=IwAR2x8wYxY5aukeKXFoAV5V3YkK3gemMIUtVLRLP-6kvmXNoTI6sD-qmdCOU>). She said House Republicans "believe employers should provide reasonable accommodations for pregnant workers, empowering them to achieve their highest potential." However, as currently written, she said, the bill would "create legal risk for religious organizations in their religiously backed employment decisions." She noted that Title VII of the Civil Rights Act of 1964 protects religious organizations from making employment decisions that conflict with their faith.

We've rounded up articles and resources from *SHRM Online* and other trusted media outlets on the news.

SHRM Supports the Legislation

The Society for Human Resource Management (SHRM) supports the bill, which would clarify employers' obligations and employees' rights. The PWFA "provides important workplace protections for pregnant workers, while ensuring employers have flexibility and clarity regarding how best to ensure pregnant employees can remain in the workplace," SHRM wrote in a Sept. 15 letter to House Speaker Nancy Pelosi, D-Calif., and House Leader Kevin McCarthy, R-Calif.

"The PWFA closely aligns with the Americans with Disabilities Act, triggering a familiar, interactive process once an employee requests an accommodation to perform essential functions of her position," SHRM wrote. "Importantly, leave may be provided as an accommodation only after the interactive process cannot identify a reasonable accommodation within the workplace." As with the Americans with Disabilities Act (ADA), accommodations would be required only so long as the modifications don't cause an undue hardship.

(SHRM Online (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/pregnant-workers-fairness-act-accommodations.aspx))

Worker Advocates and Business Groups Support Proposal

The American Civil Liberties Union and the U.S. Chamber of Commerce also back the bill. "When it was first introduced, we had concerns with the language. In past years, we would've said, 'We don't like it, move on,' " said Glenn Spencer, vice president of employment policy at the Chamber of Commerce. However, the chamber worked with employee advocates to adjust the proposal. "It was a good example of sitting down with people you might not talk to and figuring out how to make it work for both sides," Spencer said.

(HuffPost (https://www.huffpost.com/entry/house-passes-pregnant-workers-fairness-act_n_5f635795c5b6ba9eb6ea8b6d?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xLmNvbS8&guce_referrer_sig=AQAAAM2R_ncvv_FAv6v_X8jAK4KgoyvigeiVMDJza8z9WKn9p9ebPiz4dqibH5QAFWn2dsW_tp6AR1Cdw-FHe2WbjV4fWrWgMg4w5exW4KPqijtTclQwkcz8kkolEB3Xxy1HiSKKTL_3HWLv9L4UZKUTe0zauo8692pYy3YrY1lnJDB))

Large Companies Urged Congress to Pass Bill

Companies such as Microsoft, Patagonia, Unilever, Salesforce and Mastercard signed onto a letter in support of the PWFA. "As a business community, we strive to create more equitable workplaces and better support pregnant workers and their families every day. We urge the passage of the Pregnant Workers Fairness Act as an important advancement toward ensuring the health, safety and productivity of our modern workforce—and the workforce of tomorrow," the letter said.

(Forbes (<https://www.forbes.com/sites/ruthumoh/2020/09/17/microsoft-salesforce-and-other-us-employers-urge-congress-to-strengthen-laws-for-pregnant-workers/#32dc64fe6c7d>))

Many States Already Require Reasonable Accommodations

Thirty states, as well as Washington, D.C., and several cities have passed laws that require certain employers to provide reasonable accommodations to pregnant workers. Some laws only apply to public employers, and others cover private employers. California's law, which covers businesses with at least five employees, also prohibits employers from retaliating against workers who exercise their rights under the law. Colorado's law applies to all employers regardless of size.

(National Partnership for Women & Families (<https://www.nationalpartnership.org/our-work/resources/economic-justice/pregnancy-discrimination/reasonable-accommodations-for-pregnant-workers-state-laws.pdf>))

Federal Law Prohibits Pregnancy Discrimination

The Pregnancy Discrimination Act prohibits employers from discriminating against pregnant workers in employment decisions, including decisions related to hiring, firing, compensating, promoting, and offering benefits and insurance coverage. Pregnancy discrimination "involves treating a woman (an applicant or employee) unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth," according to the Equal Employment Opportunity Commission.

(Equal Employment Opportunity Commission (<https://www.eeoc.gov/pregnancy-discrimination>))

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