



Employment Law Note

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Recent Legislation Broadens Employer's Pregnancy Accommodation Obligations



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Washington has expanded protections for pregnant workers as of January 1, 2027.

Significant Changes to Pregnancy Accommodation Laws

Recent legislation has brought significant changes to pregnancy accommodation laws under the Healthy Starts Act in Washington state.

As of January 1, 2027, pregnancy accommodation protections under the Healthy Starts Act apply to ALL employers, regardless of the number of employees. Put differently, if an employer has one employee, the law applies to it. The law further clarifies that nonprofit sectarian and religious organizations are not exempt from providing pregnancy-related accommodations.

Additional changes to the law include:

- Employers must provide **paid** break time for employees to express breast milk. This is in addition to any other legally required meal and break periods and the employee must be paid at their regular rate. This is a significant change. Previously, the breaks were to be given but were unpaid.
- Employers must provide scheduling flexibility for prenatal and postpartum medical visits. The requirement of flexibility for postpartum medical visits is new.
- A private right of action has been established. This means that an individual may file a lawsuit against an employer with claims for failure to accommodate pregnancy and pregnancy-related conditions, (including expression of breast milk and postpartum healthcare visits). Prior, only the Washington State

Attorney General's Office ("AG's Office") could bring a lawsuit under the Healthy Starts Act.

- The agency enforcing pregnancy accommodation laws will change from the AG's Office to the Washington State Department of Labor and Industries ("L&I"). Additionally, employers found in noncompliance may face civil penalties.

Which Pregnancy Accommodations Are Employers Required to Provide?

Washington law provides specific civil rights protections for pregnant employees. Employers must accommodate pregnancy and pregnancy-related health conditions by:

- Providing more frequent, longer, or flexible restroom breaks;
- Modifying a no food or drink policy;
- Seating or allowing the employee to sit more frequently if their job requires them to stand; and
- Not requiring the employee to lift more than 17 pounds.

These accommodations must be given automatically and employers cannot ask for a written certification from a healthcare provider.

Employers must also provide the following additional pregnancy accommodations, unless they can prove that doing so would constitute an "undue hardship":

- Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;
- Temporary transfer to a less strenuous or less hazardous position;

- Assistance with manual labor and lifting limits that are less than seventeen pounds;
- Scheduling flexibility for prenatal visits and, as of January 1, 2027, flexibility for postpartum medical visits;
- Reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has need to express the milk;
- A private location, other than a bathroom, if such a location exists at the place of business or worksite, that may be used by the employee to express breast milk. If the business location does not have a space for the employee to express milk, the employer must work with the employee to identify a convenient location and work schedule to accommodate their needs; and
- Any further pregnancy accommodation an employee may request, to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the Department of Labor and Industries or the attending healthcare provider of the employee.

Employers can require a written certification from a healthcare provider if an employee requests these additional accommodations. These accommodations may be interpreted to impose more burdensome requirements than those mandated under disability law.

An employer cannot:

- Fail or refuse a reasonable pregnancy accommodation that does not impose an "undue hardship";
- Retaliate against an employee who requests, declines, or uses a reasonable pregnancy accommodation;

- Deny employment opportunities to an otherwise qualified employee because of their need for accommodation; or
- Require an employee to take leave if another reasonable accommodation could be provided.

AG's Office Sues Major Healthcare Provider for Violations of Pregnancy Accommodation Laws

All employers must be in strict compliance with pregnancy accommodation laws; otherwise they may face litigation. In May 2026, the AG's Office commenced a lawsuit against Providence Health & Services for violations of the Healthy Starts Act and Washington Law Against Discrimination.

The lawsuit's allegations suggest the AG's Office believes it found systemic compliance issues rather than isolated incidents. Systemic compliance issues occur when an organization does not have proper policies and procedures in place and fails to train managers and supervisors on the laws.

Next Steps Employers Should Take

All employers should review their policies and procedures to ensure complete compliance with the expanded regulations, review how employee pregnancy-related health information is stored, and notify anyone in a supervisory position of the new requirements (including the new paid lactation time) to avoid potential claims. The attorneys at Sebris Busto James are available to help employers review policies and procedures to ensure compliance, as well as to provide training on this and other related topics.

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