



## Pregnant Worker Accommodation & New Mexico (HB25)

New Mexicans deserve the opportunity to work to support their families without risking the health of their pregnancies.

### Why New Mexico needs the Pregnant Worker Accommodation (PWA) Act:

- Although the Pregnancy Discrimination Act of 1978 (PDA) created basic protections for pregnant workers, many still face discrimination, have difficulty getting accommodation in their workplaces, and are being pushed out of their jobs.
- Pregnancy is not classified as a disability under the American with Disabilities Act, which provides a right to reasonable accommodations for workers with disabilities. This exclusion limits pregnant workers who may need accommodations to prevent complications from arising during their pregnancy or who have pregnancy-related complications that do not meet the definition of disability.
- There are approximately 430,000 people of child-bearing age in New Mexico and there were 23,708 births to New Mexico resident's in 2017.<sup>1</sup>
- The percentage of New Mexico births in which the parent received no prenatal care or a low level of prenatal care increased in 2017 to 16% from 15.1% in 2016. Parents under 20 years of age received the lowest level of prenatal care.<sup>2</sup>
- While pregnancy discrimination hurts all employees, it has a significant impact on low-income workers who already struggle with financial hardships and likely live paycheck to paycheck.
- Everything about having an infant is expensive! Many pregnant people work throughout their pregnancies and being able to work during a pregnancy is extremely important for some families to be financially secure.
- Pregnant workers may need minor accommodations to make it possible for them to keep working and maintain a healthy pregnancy. The accommodation could be something as simple as allowing an employee to drink water or have snacks at their workstation or putting a stool out for a cashier.
- As of June 2019, 27 states and 5 cities have passed stronger protections for pregnant workers. These protections often pass with bipartisan, and often unanimous, support.<sup>3</sup>

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<sup>1</sup>New Mexico Selected Health Statistics Annual Report 2017, available at: <https://nmhealth.org/data/view/vital/2208/>

<sup>2</sup> New Mexico Selected Health Statistics Annual Report 2017, available at: <https://nmhealth.org/data/view/vital/2208/>

<sup>3</sup> Fact Sheet: State and Local Pregnant Workers Fairness Laws, A Better Balance, available at: <https://www.abetterbalance.org/resources/fact-sheet-state-and-local-pregnant-worker-fairness-laws/>



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New Mexicans should not have to choose between having a healthy pregnancy and keeping their jobs!

### What would the Pregnant Worker Accommodation Act do?

- Employers with four or more employees are required to grant a reasonable accommodation for an employee with a need arising from pregnancy, childbirth, or related condition as long as it does not create an undue hardship for the employer.
- A reasonable accommodation is a change to the employee's work environment, work rules or job responsibilities for as long as necessary to accommodate a pregnant worker with a need arising from pregnancy, childbirth, or related conditions.
- An employer cannot force a pregnant employee to take unpaid or paid leave if another accommodation can be provided, unless the employee requests leave as an accommodation.
- Some examples of a reasonable accommodation can include 1) allowing an employee to keep water at their workstation, 2) extra bathroom breaks, 3) reprieve from heavy lifting, 4) light duty, or 5) time off to attend prenatal appointments.
- PWA extends the protections of the Human Rights Act to pregnant workers who need an accommodation arising from pregnancy, childbirth or a related condition. These protections include prohibiting discrimination in hiring, discharge, promotion, demotion, compensation, leave, terms, conditions, or privileges of employment.
- A pregnant worker who is denied a reasonable accommodation or experiences discrimination for a need arising out of pregnancy can file a complaint with the Human Rights Commission or file in court after going through Human Rights Commission. The complaint process will follow the procedure created by the Human Rights Act.

**Please help us pass the Pregnant Worker Accommodation Act!**