

## What To Respect When You're Expecting

"If nature had arranged that husbands and wives should have children alternately, there would never be more than three in a family."

-- Laurence Housman, British artist, writer and playwright (1865-1959)

Until 30 years ago, women who were expecting a child could not expect protection from discrimination at work. Married women faced job discrimination and pregnant women were routinely fired.

In 1976 the U.S. Supreme Court ruled in *General Electric v. Gilbert* that an employer could legally discriminate against a pregnant worker and deny benefits for her pregnancy-related disability. The *Gilbert* case triggered a strong reaction. Women's organizations, labor and civil rights advocates, and right-to-life groups formed a coalition to end such discrimination. In 1978, Congress passed the Pregnancy Discrimination Act, which established, and required employers to respect, the rights of pregnant women.

### Q. How does the Pregnancy Discrimination Act protect workers?

It established as "the law of the land" – applying across all 50 states – that discrimination on the basis of pregnancy, childbirth, or related medical conditions is unlawful under Title VII of the Civil Rights Act.

This means women affected by pregnancy or related conditions, including infertility or reproductive failure, must be treated in the same manner as other applicants or employees with similar abilities or limitations.

The law applies to all employers with 15 or more employees, including state and local governments, employment agencies, and the federal government.

### Q. How does this law affect hiring?

An employer cannot refuse to hire a woman because of her pregnancy related condition as long as she is able to perform the major functions of the job. An employer also cannot refuse to hire because of prejudice of co-workers, clients, or customers against pregnant women.

The law also covers promotions, firings, seniority rights, and fringe benefits.

### Q. How are pregnancy and maternity leave treated?

Pregnant workers must be treated like other workers to determine whether they can work. For example, if an employer requires a doctor's statement before granting leave or sick pay, then workers affected by pregnancy related conditions must also submit a doctor's statement.

Pregnant employees who are temporarily unable to perform their job must be treated the same as other temporarily disabled employees. This might mean modified tasks, alternative assignments, disability leave, or leave without pay. Pregnant employees must be allowed to work as long as they are able to perform their jobs.

If an employer holds open the jobs of employees absent for reasons such as car wreck injuries or a heart attack, then the employer must hold open the job of a woman absent due to pregnancy.

### Q. What about health insurance and benefits?

If insurance coverage is provided, pregnancy related expenses must be reimbursed on the same basis as expenses for other medical conditions. Spouses of male employees must have the same coverage as spouses of female employees. Pregnancy related benefits cannot be limited to married employees.

### Q. What if my rights have been violated?

You have 300 days to call 1-800-669-4000 and file a discrimination charge with the EEOC (Equal Employment Opportunity Commission).

**Note:** If your employer has 8 to 15 employees, you have 180 days to complain to the Tennessee Human Rights Commission at 615-741-5825.

by Jim Hawkins, Managing Attorney,  
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**Note:** This column is not intended to take the place of legal advice. All cases are different and need individual attention. Consult with a private attorney of your choice to review the facts and law specific to your case.

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