



*Helping working families make it work.*

## **Know Your Rights: Pregnancy Protections and Leave**

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### **District of Columbia**

#### **+ When should I notify my employer?**

- As soon as you announce your pregnancy in your personal life, you should tell your employer. Do not wait until your pregnancy is physically obvious. Under the Family Medical Leave Act, you must notify your employer at least 30 days in advance of your need to take planned leave when the baby is born. *Notify your employer in writing.*
- Before notifying your employer, check your company's maternity and disability policies. If your company does not have an official written policy, you can also check with your personnel office and/or your union.

#### **+ Can my employer fire me for being pregnant?**

- No. The D.C. Human Rights Act and the Pregnancy Discrimination Act (PDA) of 1978 prohibit employers from discriminating against you on the basis of pregnancy, childbirth, or related medical conditions.
- Not only is it illegal for an employer in D.C. to fire you for being pregnant, it is also illegal for the employer to refuse to consider you for a position for fear that you may become pregnant.

#### **+ Is my employer required to make accommodations in the workplace?**

- Yes. Under the Protecting Pregnant Workers Fairness Act of 2014, if you are employed in D.C., your employer must provide you with reasonable workplace accommodations if you need them because of pregnancy, childbirth, or breastfeeding.
- The D.C. Human Rights Act and the PDA also require an employer to provide the same accommodations to pregnant employees that are offered to other temporarily ill or disabled employees. For example, if an employer offers light duty, modified tasks, or unpaid leave while an employee is temporarily disabled, those same options must be made available to a pregnant employee.

- Employers with 15 or more employees are also required to provide reasonable accommodations to employees with disabilities recognized under the Americans with Disabilities Act. Although pregnancy is not recognized, certain pregnancy-related conditions (such as gestational diabetes) qualify. The D.C. Human Rights Act prohibits *any* employer within DC from discrimination against an employee based on a disability.
- To request accommodation, you should obtain a doctor's order outlining specific recommendations, such as tasks that should be avoided or whether you need to take frequent breaks or stay off your feet for periods of time.

### **Can I take leave?**

- Maybe. The DC Family Medical Leave Act (DCFMLA) guarantees employees 16 weeks of unpaid family leave within a 24-month period if:
  - Your workplace employs 20 or more people; and
  - You have worked for the employer continuously for at least one year; and
  - You have worked at least 1,000 hours in the last 12 months.
- The DCFMLA also guarantees up to 16 weeks of unpaid medical leave due to incapacitation as the result of pregnancy or to receive prenatal care. This leave may be taken in addition to the 16 weeks of unpaid family leave.
- The D.C. Accrued Safe and Sick Leave Act allows employees in D.C. to accrue paid leave that can be used by the employee if he or she is sick and/or to attend doctors' appointments - or to care for an injured or sick relative. The amount of paid leave you can accrue depends on the number of employees working for your employer. Employees begin accruing leave on the day they are hired and are eligible to take leave after 90 days of employment.
- The federal Family Medical Leave Act (FMLA) provides 12 weeks of unpaid leave in a one-year period for employees who work for an employer with 50 or more employees.
- Under the FMLA, pregnant women can take leave for prenatal appointments or morning sickness. Intermittent leave can be taken for other reasons if your doctor says that it is medically necessary.
- If you do not qualify for FMLA leave, your employer may still be required under the PDA or the D.C. Human Rights Act to provide leave if it provides leave to other temporarily disabled or ill employees.
- Your employer cannot force you to take leave before you are ready. Additionally, your supervisor cannot assign you different responsibilities because of his or her

discomfort in having you fulfill your normal job duties while pregnant – even if the discomfort is rooted in a concern for your safety.

#### **+ What happens to my benefits and health insurance while I'm on leave?**

- If you qualify for protected leave under DCFMLA or FMLA, your employer must continue to provide you with health insurance while you are on leave. When you return, you must be reinstated in your previous position, or an equivalent position with equivalent pay and benefits.

#### **+ What can I do if I experience discrimination?**

- If your employer discriminates against because of your pregnancy or disability, you can file a complaint within one year of the discrimination with the D.C. Office of Human Rights: (202) 727-4559 or [ohr@dc.gov](mailto:ohr@dc.gov).

You may also file a claim for pregnancy discrimination under Title VII of the Civil Rights Act of 1964 and PDA with the Equal Employment Opportunity Commission (EEOC). Discrimination claims must be filed within 300 days of the discriminatory act: <http://www.eeoc.gov/employees/howtofile.cfm>.

- If your employer interferes with your ability to use accrued sick leave under the Accrued Safe and Sick Leave Act, you may file a complaint within 60 days with the D.C. Office of Wage and Hour of the D.C. Department of Employment Services: (202) 671-1880 or [does@dc.gov](mailto:does@dc.gov).
- If you qualify for protected leave under DCFMLA and your employer retaliates against you or prevents you from taking leave, you can file a complaint within one year with the D.C. Office of Human Rights: (202) 727-4559 or [ohr@dc.gov](mailto:ohr@dc.gov). If you are protected under FMLA, you may file a complaint through the Wage and Hour Division of the Department of Labor. Claims under the federal FMLA must be made within two years of the discriminatory action: (866) 487-9243 or <http://www.dol.gov/wecanhelp/howtofilecomplaint.htm>.

#### **+ Need legal assistance?**

- This fact sheet is intended to provide general information about legal rights in the workplace. For legal advice about your own individual situation, please consult an attorney.
- First Shift Justice Project can advise you on these issues for free or low-cost. Please contact us at [lbrown@firstshift.org](mailto:lbrown@firstshift.org) or consult our website: [www.firstshift.org](http://www.firstshift.org).