

## Nevada Division of Public and Behavioral Health

### **Pregnancy Fairness Act**

Senate Bill (SB) 253 of the 79<sup>th</sup> Session of the Nevada Legislature

([https://www.leg.state.nv.us/Session/79th2017/Bills/SB/SB253\\_EN.pdf](https://www.leg.state.nv.us/Session/79th2017/Bills/SB/SB253_EN.pdf))

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*The Nevada Pregnant Workers' Fairness Act (SB 253 of the 79<sup>th</sup> Session of the Nevada Legislature) provides protections to female employees and applicants for employment who are affected by a condition of the employee or applicant relating to pregnancy, childbirth, or a related medical condition. SB 253 had an effective date upon approval, in part (employer providing written notice to existing employees), and in full on October 1, 2017, and aligns Nevada law with federal requirements.*

The Nevada Pregnant Workers' Fairness Act applies to employers with more than 15 employees. This includes state and local governments, but may not include some employers, such as those on Indian reservations and employers who prove undue hardship as defined by SB 253.

Employers are required to provide reasonable accommodations to employees (and applicants for employment) for a condition relating to pregnancy, childbirth, or a related medical condition, unless the accommodation would impose an undue hardship on the business of the employer. Lactation, or the need to express breast milk for a nursing child, is defined as a related medical condition.

Pregnant women are protected from termination due to refusal of their employer to provide a reasonable accommodation.

To prove undue hardship, the employer must demonstrate the accommodation is significantly difficult to provide or expensive considering without limitation the nature and cost of the accommodation; overall financial resources of the employer, the overall size of the business with respect to the number of employees, type and location of the available facilities, and the effect of the accommodation on the operations of the employer.

The Nevada Pregnant Workers' Fairness Act makes it unlawful to refuse a reasonable accommodation request from an employee or applicant for employment.

Employers may not take adverse employment action because of a request for or use of a reasonable accommodation, including refusing to promote or reinstate, or forcing employee to transfer, or other undesired actions relating to employment terms or condition.

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Employers may not deny employment to an otherwise qualified employee or applicant based on their need for a reasonable accommodation or require an employee to either accept an accommodation they did not request or choose not to accept or to take employment leave if a reasonable accommodation is available allowing the employee to continue to work.

A reasonable accommodation is described as an action relating to an employee (or applicant) request for accommodation for a condition relating to pregnancy, childbirth, or a related medical condition. A timely, good faith, and interactive process to determine an effective and reasonable accommodation is required. This may consist of changes in work environment, or the customary way things are carried out, and requires equal employment opportunities, along with benefits and privileges.

Examples of accommodations or customary way in which things are carried out may include: modifying equipment, seating, or break schedules (frequency and duration); provision of non-bathroom space for expressing breastmilk; assistance with manual labor if manual labor is incidental to the primary work duties of the employee; light duty; temporary transfer; or restructuring a position or providing a modified work schedule.

Employers do not have to create a new position, discharge, or transfer another employee, or promote an unqualified employee.

An employer may require an employee to provide an explanatory statement from their physician concerning the specific accommodation recommended by the physician for the employee.

Written notice must be provided by the employer relating to the employee right to reasonable accommodation for a condition relating to pregnancy, childbirth, or a related medical condition. Written notice shall be given to a new employee upon commencement of employment, within 10 days of employer notification of pregnancy, and employer shall post notice in a conspicuous, employee-accessible place.