



Pregnancy in the Law Enforcement Workplace

This fact sheet is intended as a summary of the existing laws affecting the rights of pregnant employees in the law enforcement workplace. This is not intended as legal advice. Law enforcement agencies are encouraged to consult with their legal counsel on specific questions regarding these matters.

Pregnancy Discrimination is Sex Discrimination

Unlawful discrimination on the basis of pregnancy, childbirth, or pregnancy-related medical conditions constitutes unlawful sex discrimination.

Hiring/Firing

It is unlawful for an employer to fire or refuse to hire a woman because she is pregnant, has a pregnancy-related medical condition, or because of the biases or prejudices of co-workers, clients, customers or the public.

Harassment/Retaliation

It is unlawful to harass an employee, or allow co-workers or others in the workplace to do so, because she is pregnant, is affected by childbirth, or has a pregnancy-related medical condition.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate on the basis of pregnancy, or for filing a discrimination complaint or in any way participating in a discrimination investigation, proceeding, or litigation.

Health Insurance and Employee Benefits

Any health insurance provided by an employer must cover expenses for pregnancy-related conditions on the same basis as costs for other medical conditions. Pregnancy-related benefits cannot be limited to married employees.

An employee with a pregnancy-related disability must be treated the same as any other employee with a temporary disability for purposes of accruing and crediting seniority, vacation calculation, pay increases and temporary disability benefits.

Work Assignments and Accommodations

An employer may not single out pregnant employees or employees with pregnancy-related medical conditions for special procedures to determine ability to work. Women who are pregnant or affected by pregnancy-related medical conditions must be treated the same as other employees with similar limitations or disabilities.

If an employer provides employees who have temporary disabilities with modified job duties, limited duty or alternative work assignments, the employer must provide the same to pregnant employees who are temporarily unable to perform their regular job duties.

If an employer accommodates employees who have temporary disabilities by providing a leave of absence, the employer must offer the same to pregnant employees. However, an employer cannot force an employee to take a leave of absence because she is pregnant — the pregnant employee must be permitted to work as long as she is able to perform the essential functions of her job.

Determinations regarding an employee's ability to perform hazardous assignments must be made based on legitimate medical reasons and the employee's specific medical condition, including information from the employee and the employee's treating physician, and may also include information from a fitness for duty examination requested by the employer. An employer cannot force a pregnant employee to transfer to another job or take a leave of absence because the employer believes it is safer for her or the fetus.

An employer must provide a pregnant employee with maternity or alternate uniform options.

Pregnancy/Maternity/ Child Care Leave

Under the federal Family Medical and Family Leave Act (FMLA), eligible employees may take up to 12 weeks of leave for childbirth and their own care due to a pregnancy-related health condition. After the child is born, eligible employees may take up to 12 weeks of additional leave under the New Jersey Family Leave Act (NJFLA) to care for or bond with the newborn (or a newly-adopted) child. (The same type of childcare/bonding leave is available under the federal FMLA, but any FMLA leave that the employee has already taken for her own medical/childbirth needs will be deducted from the 12 weeks of FMLA leave available in a 12 month period.)

Under the Family Leave Insurance provision of the New Jersey Temporary Disability Benefits Law, an eligible employee may receive up to 6 weeks of cash benefits while taking leave to care for/bond with a newborn or newly adopted child.

Leave available under the FMLA or the FLA does not take away other leave that may be provided through employer policy or collective bargaining agreements.

If an employer provides personal leave for other reasons, the employer must also grant personal leave for the care of a newborn child.

Break Time for Nursing Mothers

Pursuant to the federal Fair Labor Standards Act (FLSA), employers are required to provide reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth. Employers are also required to provide an appropriate private place, other than a bathroom, which may be used by an employee to express breast milk.

For More Information

The rights and protections for pregnant employees come from several state and federal laws. **The New Jersey Division on Civil Rights** (DCR) enforces the **New Jersey Family Leave Act** (FLA) (N.J.S.A. 34:11B-1 et seq. and regulations at N.J.A.C. 13:14-1.1 et seq.) and the **New Jersey Law Against Discrimination** (LAD), which prohibits sex discrimination and disability discrimination in employment, including discrimination based on pregnancy-related disability (N.J.S.A.10:5-1 et seq. and regulations at N.J.A.C.13:13-1 et seq.) www.NJCivilRights.gov.

An employee who believes his or her employer has violated the FLA or the LAD may file a complaint with **DCR within 180 days** of the violation, or may instead file a complaint in Superior Court within 2 years of the violation.

For more information about other laws, benefits and enforcement procedures, you may wish to contact the following government agencies:

- **The New Jersey Department of Labor and Workforce Development** administers **Temporary Disability Insurance** and **Family Leave Insurance** laws (N.J.S.A. 43:21-39.3 and regulations at N.J.A.C. 12:21-1.1 et seq.). lwd.state.nj.us/labor/index.html
- The **U.S. Department of Labor** enforces the federal **Family and Medical Leave Act** (29 U.S.C. § 2601 et. seq.) and **Fair Labor Standards Act**. 29 U.S.C. §201, et seq. This DOL publication may be helpful: U.S. Department of Labor, Wage and Hour Division - Fact Sheet #73: "Break Time for Nursing Mothers under the FLSA" www.dol.gov.
- The **U.S. Equal Employment Opportunity Commission** enforces the **Americans with Disabilities Act** (42 U.S.C. §12101 et seq.) and Title VII, which prohibits sex discrimination in general and includes the federal **Pregnancy Discrimination Act** (42 U.S.C. § 2000e(k)). These EEOC publications may be helpful: "Facts About Pregnancy Discrimination" and "Employer Best Practices for Workers with Care Giving Responsibilities." www.eeoc.gov



NJ Office of the Attorney General

CIVIL RIGHTS

The Department of Law & Public Safety, through its Division on Civil Rights, is responsible for enforcing the law. To file a complaint, contact or visit the office nearest you:

Atlantic City Satellite Office:

26 Pennsylvania Avenue, Atlantic City, NJ 08401
Phone: **(609) 441-3100** • Fax: (609) 441-3578

Camden Regional Office:

One Port Center, 4th Floor, Suite 402
2 Riverside Drive, Camden, NJ 08103
Phone: **(856) 614-2550** • Fax: (856) 614-2568

Newark Regional Office:

31 Clinton Street, Newark, NJ 07102
Phone: **(973) 648-2700** • Fax: (973) 648-4405

Trenton Regional Office:

140 East Front Street / P.O. Box 090
Trenton, NJ 08625-0090
Phone: **(609) 292-4605** • Fax: (609) 984-3812

Visit our web site at **www.NJCivilRights.gov**