For historical reasons, these laws and executive orders are presented as originally passed by Congress or issued by the President. For the current texts of the laws we enforce, as amended, please see ***Laws Enforced by EEOC*** **(https://www.eeoc.gov/laws)** *.*

The Pregnant Workers Fairness Act

EDITOR'S NOTE: The following is the text of the Pregnant Workers Fairness Act (Pub. L. 117-328) (PWFA), as it appears in volume 42 of the United States Code, at section 2000gg. The PWFA, which is administered and enforced by the EEOC, requires covered employers to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship. Cross references to the PWFA as enacted appear in italics following each section heading. Editor's notes also appear in italics.

DEFINITIONS

SEC. 2000gg. *[Section 102]*

As used in this chapter—

(1) the term “Commission” means the Equal Employment Opportunity Commission;

(2) the term “covered entity”--

(A) has the meaning given the term “respondent” in section 2000e(n) of this title *[section 701(n) of the Civil Rights Act of 1964]*; and

(B) includes--

(i) an employer, which means a person engaged in industry affecting commerce who has 15 or more employees as defined in section 2000e(b) of this title *[section 701(b) of the Civil Rights Act of 1964]*;

(ii) an employing office, as defined in section 1301 of Title 2 *[section 101 of the Congressional Accountability Act of 1995]* and section 411(c) of title 3 *[United States Code]*;

(iii) an entity employing a State employee described in section2000e-16c(a) of this title *[section 304(a) of the Government Employee Rights Act of 1991]*; and

(iv) an entity to which section 2000e-16(a) of this title applies *[section 717(a) of the Civil Rights Act of 1964];*

(3) the term “employee” means—

(A) an employee (including an applicant), as defined in section 2000e(f) of this title *[section 701(f) of the Civil Rights Act of 1964]*;

(B) a covered employee (including an applicant), as defined in section 1301 of Title 2 *[section 101 of the Congressional Accountability Act of 1995]*, and an individual described in section 1311(d) of Title 2 *[section 201(d) of the Congressional Accountability Act of 1995]*;

(C) a covered employee (including an applicant), as defined in section 411(c) of Title 3 *[United States Code]*;

(D) a State employee (including an applicant) described in section 2000e-16c(a) of this title *[section 304(a) of the Government Employee Rights Act of 1991]*; or

(E) an employee (including an applicant) to which section 2000e-16(a) of this title *[section 717(a) of the Civil Rights Act of 1964]*applies;

(4) the term “known limitation” means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee's representative has communicated to the employer whether or not such condition meets the definition of disability specified in section 12102 of this title *[section 3 of the Americans with Disabilities Act of 1990]*;

(5) the term “person” has the meaning given such term in section 2000e(a) of this title *[section 701(a) of the Civil Rights Act of 1964]*;

(6) the term “qualified employee” means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if--

(A) any inability to perform an essential function is for a temporary period;

(B) the essential function could be performed in the near future; and

(C) the inability to perform the essential function can be reasonably accommodated; and

(7) the terms “reasonable accommodation” and “undue hardship” have the meanings given such terms in section 12111 of this title *[section 101 of the Americans with Disabilities Act of 1990]* and shall be construed as such terms are construed under such Act and as set forth in the regulations required by this division, including with regard to the interactive process that will typically be used to determine an appropriate reasonable accommodation.

NONDISCRIMINATION WITH REGARD TO REASONABLE ACCOMMODATIONS RELATED TO PREGNANCY

SEC. 2000gg-1. *[Section 103]*

It shall be an unlawful employment practice for a covered entity to—

(1) not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;

(2) require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process referred to in section 2000gg(7) of this title *[section 102(7)]*;

(3) deny employment opportunities to a qualified employee if such denial is based on the need of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee;

(4) require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or

(5) take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

REMEDIES AND ENFORCEMENT

SEC.2000gg-2. *[Section 104]*

(a) Employees covered by Title VII of the Civil Rights Act of 1964

(1) In general

The powers, remedies, and procedures provided in sections 705, 706, 707,

709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4 et seq.) to the Commission, the Attorney General, or any person alleging a violation of title VII of such Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(A) of this title *[section 102(3)(A)]* except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title *[42 U.S.C. 1988]* shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title *[42 U.S.C. 1981a]*, including the limitations contained in subsection (b)(3) of section 1981a of this title, shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title *[42 U.S.C. 1981a(a)(1)]*).

(b) Employees covered by Congressional Accountability Act of 1995

(1) In general

The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) for the purposes of addressing allegations of violations of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this chapter provides to address an allegation of an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(B) of this title *[section 102(3)(B)]*, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title *[42 U.S.C. 1988]* for the purposes of addressing allegations of such a violation shall be the powers, remedies, and procedures this chapter provides to address allegations of such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title *[42 U.S.C. 1981a]*, including the limitations contained in subsection (b)(3) of section 1981a of this title, for purposes of addressing allegations of such a violation, shall be the powers, remedies, and procedures this chapter provides to address any allegation of such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title *[42 U.S.C. 1981a(a)(1)]*).

(c) Employees covered by chapter 5 of Title 3

(1) In general

The powers, remedies, and procedures provided in chapter 5 of Title 3 *[United States Code]* to the President, the Commission, the Merit Systems Protection Board, or any person alleging a violation of section 411(a)(1) of such title shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, the Board, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(C) of this title *[section 102(3)(C)]*, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title *[42 U.S.C. 1988]* shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, the Board, or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title *[42 U.S.C. 1981a]*, including the limitations contained in subsection (b)(3) of section 1981a of this title, shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, the Board, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title *[42 U.S.C. 1981a(a)(1)]*).

(d) Employees covered by Government Employee Rights Act of 1991

(1) In general

The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16b; 2000e-16c), to the Commission or any person alleging a violation of section 302(a)(1) of such Act (42 U.S.C. 2000e-16b(a)(1)) shall be the powers, remedies, and procedures this chapter provides to the Commission or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(D) of this title *[section 102(3)(D)]*, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title *[42 U.S.C. 1988]* shall be the powers, remedies, and procedures this chapter provides to the Commission or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title *[42 U.S.C. 1981a],* including the limitations contained in subsection (b)(3) of section 1981a of this title, shall be the powers, remedies, and procedures this chapter provides to the Commission or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title *[42 U.S.C. 1981a(a)(1)]*).

(e) Employees covered by section 717 of the Civil Rights Act of 1964

(1) In general

The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) to the Commission, the Attorney General, the Librarian of Congress, or any person alleging a violation of that section shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(E) of this title *[section 102(3)(E)]*, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title *[42 U.S.C. 1988]* shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title *[42 U.S.C. 1981a]*, including the limitations contained in subsection (b)(3) of section 1981a of this title, shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title *[42 U.S.C. 1981a(a)(1)]*).

(f) Prohibition against retaliation

(1) In general

No person shall discriminate against any employee because such employee has opposed any act or practice made unlawful by this chapter or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

(2) Prohibition against coercion

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual having exercised or enjoyed, or on account of such individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

(3) Remedy

The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

(g) Limitation

Notwithstanding subsections (a)(3), (b)(3), (c)(3), (d)(3), and (e)(3), if an unlawful employment practice involves the provision of a reasonable accommodation pursuant to this chapter or regulations implementing this chapter, damages may not be awarded under section 1981a of this title *[42 U.S.C. 1981a]* if the covered entity demonstrates good faith efforts, in consultation with the employee with known limitations related to pregnancy, childbirth, or related medical conditions who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such employee with an equally effective opportunity and would not cause an undue hardship on the operation of the covered entity.

RULEMAKING

SEC.2000gg-3. *[Section 105]*

(a) EEOC rulemaking

Not later than 1 year after December 29, 2022, the Commission shall issue regulations in an accessible format in accordance with subchapter II of chapter 5 of Title 5 to carry out this chapter. Such regulations shall provide examples of

reasonable accommodations addressing known limitations related to pregnancy, childbirth, or related medical conditions.

(b) OCWR rulemaking

(1) In general

Not later than 6 months after the Commission issues regulations under subsection (a), the Board (as defined in section 1301 of Title 2 *[section 101 of the Congressional Accountability Act of 1995]*) shall (in accordance with section 1384 of Title 2 *[section 304 of the Congressional Accountability Act of 1995]*), issue regulations to implement the provisions of this chapter made applicable to employees described in section 2000gg(3)(B) of this title *[section 102(3)(B)]*, under section 2000gg-2(b) of this title *[section 104(b)]* .

(2) Parallel with agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations issued by the Commission under subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulations issued under paragraph (1) that a modification of such substantive regulations would be more effective for the implementation of the rights and protection under this chapter.

WAIVER OF STATE IMMUNITY

SEC. 2000gg-4. *[Section 106]*

A State shall not be immune under the 11th Amendment to the Constitution from an action in a Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

RELATIONSHIP TO OTHER LAWS

SEC. 2000gg-5. *[Section 107]*

(a) In general

Nothing in this chapter shall be construed—

(1) to invalidate or limit the powers, remedies, and procedures under any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for individuals affected by pregnancy, childbirth, or related medical conditions; or

(2) by regulation or otherwise, to require an employer-sponsored health plan to pay for or cover any particular item, procedure, or treatment or to affect any right or remedy available under any other Federal, State, or local law with respect to any such payment or coverage requirement.

(b) Rule of construction

This chapter is subject to the applicability to religious employment set forth in section 2000e-1(a) of this title *[section 702(a) of the Civil Rights Act of 1964]*.

SEVERABILITY

SEC. 2000gg-6. *[Section 108]*

If any provision of this chapter or the application of that provision to particular persons or circumstances is held invalid or found to be unconstitutional, the remainder of this chapter and the application of that provision to other persons or circumstances shall not be affected.