

# New Protections for Pregnant and Parenting Employees

UT School of Law  
39<sup>th</sup> Annual School Law Conference

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## The Legal Landscape

*Discrimination Against Pregnant Employees*

- Since 1978, a patchwork of federal laws has provided certain legal protections for pregnant employees and those with related medical conditions.
- Although these laws provide valuable rights, they do not cover all conditions, and they do not apply to all pregnant workers. Two new laws are designed to fill in these gaps.



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# The Legal Landscape

- Between 2016 and 2020, pregnancy-related lawsuits in federal court increased by 67 percent.
- And yet, in the years since 2015, more than two-thirds of plaintiffs asserting accommodation claims in federal court lost their cases, a result attributed in part to the Supreme Court's *Young* case that made it harder for plaintiffs to prevail.



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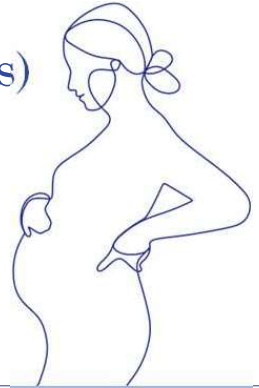
"Analysis: Bump in Pregnancy Filings Continues in 2021," Bloomberg Law (July 9, 2021); Congressional Research Service, "Pregnancy and Labor: An Overview of Federal Laws Protecting Pregnant Workers," at 12-13 (June 17, 2021).



## Pregnant & Nursing Employees: *Overview of Existing Law*

# Existing Legal Protections

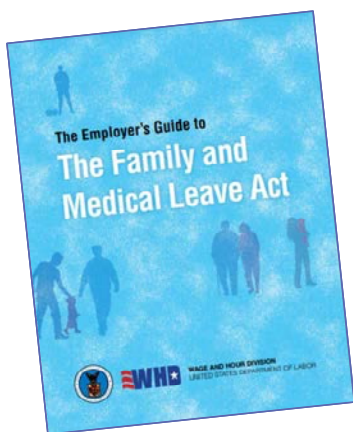
- Family & Medical Leave Act
- Americans with Disabilities Act and Section 504 of the Rehabilitation Act
- Title IX
- Fair Labor Standards Act (non-exempt workers)
- Texas Government Code
- Pregnancy Discrimination Act



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## Family & Medical Leave Act



- Provides workers with 12 weeks of unpaid leave during a 12-month period and provides job protection. 29 C.F.R. part 825.
- Can be used for the birth or care of a newborn child or adopted child; care of the employee's spouse, son, daughter, or parent with a serious health condition; and treatment of the employee's own serious health condition (including prenatal care). (Also provides certain benefits to military families.)

**Does not require workplace accommodations.**

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39<sup>th</sup> Annual School Law Conference session

"New Protections for Pregnant and Parenting Employees"