

117TH CONGRESS  
1ST SESSION

# S. 1486

To eliminate discrimination and promote women’s health and economic security by ensuring reasonable workplace accommodations for workers whose ability to perform the functions of a job are limited by pregnancy, childbirth, or a related medical condition.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 29, 2021

Mr. CASEY (for himself, Mr. CASSIDY, Mrs. SHAHEEN, Mrs. CAPITO, Ms. SMITH, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

## A BILL

To eliminate discrimination and promote women’s health and economic security by ensuring reasonable workplace accommodations for workers whose ability to perform the functions of a job are limited by pregnancy, childbirth, or a related medical condition.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pregnant Workers  
5 Fairness Act”.

1 **SEC. 2. NONDISCRIMINATION WITH REGARD TO REASON-**  
2 **ABLE ACCOMMODATIONS RELATED TO PREG-**  
3 **NANCY.**

4 It shall be an unlawful employment practice for a cov-  
5 ered entity to—

6 (1) not make reasonable accommodations to the  
7 known limitations related to the pregnancy, child-  
8 birth, or related medical conditions of a qualified  
9 employee, unless such covered entity can dem-  
10 onstrate that the accommodation would impose an  
11 undue hardship on the operation of the business of  
12 such covered entity;

13 (2) require a qualified employee affected by  
14 pregnancy, childbirth, or related medical conditions  
15 to accept an accommodation other than any reason-  
16 able accommodation arrived at through the inter-  
17 active process referred to in section 5(7);

18 (3) deny employment opportunities to a quali-  
19 fied employee if such denial is based on the need of  
20 the covered entity to make reasonable accommoda-  
21 tions to the known limitations related to the preg-  
22 nancy, childbirth, or related medical conditions of a  
23 qualified employee;

24 (4) require a qualified employee to take leave,  
25 whether paid or unpaid, if another reasonable ac-  
26 commodation can be provided to the known limita-

1 tions related to the pregnancy, childbirth, or related  
2 medical conditions of a qualified employee; or

3 (5) take adverse action in terms, conditions, or  
4 privileges of employment against a qualified em-  
5 ployee on account of the employee requesting or  
6 using a reasonable accommodation to the known lim-  
7 itations related to the pregnancy, childbirth, or re-  
8 lated medical conditions of the employee.

9 **SEC. 3. REMEDIES AND ENFORCEMENT.**

10 (a) EMPLOYEES COVERED BY TITLE VII OF THE  
11 CIVIL RIGHTS ACT OF 1964.—

12 (1) IN GENERAL.—The powers, remedies, and  
13 procedures provided in sections 705, 706, 707, 709,  
14 710, and 711 of the Civil Rights Act of 1964 (42  
15 U.S.C. 2000e–4 et seq.) to the Commission, the At-  
16 torney General, or any person alleging a violation of  
17 title VII of such Act (42 U.S.C. 2000e et seq.) shall  
18 be the powers, remedies, and procedures this Act  
19 provides to the Commission, the Attorney General,  
20 or any person, respectively, alleging an unlawful em-  
21 ployment practice in violation of this Act against an  
22 employee described in section 5(3)(A) except as pro-  
23 vided in paragraphs (2) and (3) of this subsection.

24 (2) COSTS AND FEES.—The powers, remedies,  
25 and procedures provided in subsections (b) and (c)

1 of section 722 of the Revised Statutes (42 U.S.C.  
2 1988) shall be the powers, remedies, and procedures  
3 this Act provides to the Commission, the Attorney  
4 General, or any person alleging such practice.

5 (3) DAMAGES.—The powers, remedies, and pro-  
6 cedures provided in section 1977A of the Revised  
7 Statutes (42 U.S.C. 1981a), including the limita-  
8 tions contained in subsection (b)(3) of such section  
9 1977A, shall be the powers, remedies, and proce-  
10 dures this Act provides to the Commission, the At-  
11 torney General, or any person alleging such practice  
12 (not an employment practice specifically excluded  
13 from coverage under section 1977A(a)(1) of the Re-  
14 vised Statutes).

15 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-  
16 COUNTABILITY ACT OF 1995.—

17 (1) IN GENERAL.—The powers, remedies, and  
18 procedures provided in the Congressional Account-  
19 ability Act of 1995 (2 U.S.C. 1301 et seq.) to the  
20 Board (as defined in section 101 of such Act (2  
21 U.S.C. 1301)) or any person alleging a violation of  
22 section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1))  
23 shall be the powers, remedies, and procedures this  
24 Act provides to the Board or any person, respec-  
25 tively, alleging an unlawful employment practice in

1 violation of this Act against an employee described  
2 in section 5(3)(B), except as provided in paragraphs  
3 (2) and (3) of this subsection.

4 (2) COSTS AND FEES.—The powers, remedies,  
5 and procedures provided in subsections (b) and (c)  
6 of section 722 of the Revised Statutes (42 U.S.C.  
7 1988) shall be the powers, remedies, and procedures  
8 this Act provides to the Board or any person alleg-  
9 ing such practice.

10 (3) DAMAGES.—The powers, remedies, and pro-  
11 cedures provided in section 1977A of the Revised  
12 Statutes (42 U.S.C. 1981a), including the limita-  
13 tions contained in subsection (b)(3) of such section  
14 1977A, shall be the powers, remedies, and proce-  
15 dures this Act provides to the Board or any person  
16 alleging such practice (not an employment practice  
17 specifically excluded from coverage under section  
18 1977A(a)(1) of the Revised Statutes).

19 (4) OTHER APPLICABLE PROVISIONS.—With re-  
20 spect to a claim alleging a practice described in  
21 paragraph (1), title III of the Congressional Ac-  
22 countability Act of 1995 (2 U.S.C. 1381 et seq.)  
23 shall apply in the same manner as such title applies  
24 with respect to a claim alleging a violation of section  
25 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

1           (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE  
2 3, UNITED STATES CODE.—

3           (1) IN GENERAL.—The powers, remedies, and  
4 procedures provided in chapter 5 of title 3, United  
5 States Code, to the President, the Commission, the  
6 Merit Systems Protection Board, or any person al-  
7 leging a violation of section 411(a)(1) of such title  
8 shall be the powers, remedies, and procedures this  
9 Act provides to the President, the Commission, the  
10 Board, or any person, respectively, alleging an un-  
11 lawful employment practice in violation of this Act  
12 against an employee described in section 5(3)(C), ex-  
13 cept as provided in paragraphs (2) and (3) of this  
14 subsection.

15           (2) COSTS AND FEES.—The powers, remedies,  
16 and procedures provided in subsections (b) and (c)  
17 of section 722 of the Revised Statutes (42 U.S.C.  
18 1988) shall be the powers, remedies, and procedures  
19 this Act provides to the President, the Commission,  
20 the Board, or any person alleging such practice.

21           (3) DAMAGES.—The powers, remedies, and pro-  
22 cedures provided in section 1977A of the Revised  
23 Statutes (42 U.S.C. 1981a), including the limita-  
24 tions contained in subsection (b)(3) of such section  
25 1977A, shall be the powers, remedies, and proce-

1       dures this Act provides to the President, the Com-  
2       mission, the Board, or any person alleging such  
3       practice (not an employment practice specifically ex-  
4       cluded from coverage under section 1977A(a)(1) of  
5       the Revised Statutes).

6       (d) EMPLOYEES COVERED BY GOVERNMENT EM-  
7       PLOYEE RIGHTS ACT OF 1991.—

8               (1) IN GENERAL.—The powers, remedies, and  
9       procedures provided in sections 302 and 304 of the  
10       Government Employee Rights Act of 1991 (42  
11       U.S.C. 2000e–16b; 2000e–16c) to the Commission  
12       or any person alleging a violation of section  
13       302(a)(1) of such Act (42 U.S.C. 2000e–16b(a)(1))  
14       shall be the powers, remedies, and procedures this  
15       Act provides to the Commission or any person, re-  
16       spectively, alleging an unlawful employment practice  
17       in violation of this Act against an employee de-  
18       scribed in section 5(3)(D), except as provided in  
19       paragraphs (2) and (3) of this subsection.

20              (2) COSTS AND FEES.—The powers, remedies,  
21       and procedures provided in subsections (b) and (c)  
22       of section 722 of the Revised Statutes (42 U.S.C.  
23       1988) shall be the powers, remedies, and procedures  
24       this Act provides to the Commission or any person  
25       alleging such practice.

1           (3) DAMAGES.—The powers, remedies, and pro-  
2           cedures provided in section 1977A of the Revised  
3           Statutes (42 U.S.C. 1981a), including the limita-  
4           tions contained in subsection (b)(3) of such section  
5           1977A, shall be the powers, remedies, and proce-  
6           dures this Act provides to the Commission or any  
7           person alleging such practice (not an employment  
8           practice specifically excluded from coverage under  
9           section 1977A(a)(1) of the Revised Statutes).

10          (e) EMPLOYEES COVERED BY SECTION 717 OF THE  
11          CIVIL RIGHTS ACT OF 1964.—

12           (1) IN GENERAL.—The powers, remedies, and  
13           procedures provided in section 717 of the Civil  
14           Rights Act of 1964 (42 U.S.C. 2000e–16) to the  
15           Commission, the Attorney General, the Librarian of  
16           Congress, or any person alleging a violation of that  
17           section shall be the powers, remedies, and proce-  
18           dures this Act provides to the Commission, the At-  
19           torney General, the Librarian of Congress, or any  
20           person, respectively, alleging an unlawful employ-  
21           ment practice in violation of this Act against an em-  
22           ployee described in section 5(3)(E), except as pro-  
23           vided in paragraphs (2) and (3) of this subsection.

24           (2) COSTS AND FEES.—The powers, remedies,  
25           and procedures provided in subsections (b) and (c)



1 of section 722 of the Revised Statutes (42 U.S.C.  
2 1988) shall be the powers, remedies, and procedures  
3 this Act provides to the Commission, the Attorney  
4 General, the Librarian of Congress, or any person  
5 alleging such practice.

6 (3) DAMAGES.—The powers, remedies, and pro-  
7 cedures provided in section 1977A of the Revised  
8 Statutes (42 U.S.C. 1981a), including the limita-  
9 tions contained in subsection (b)(3) of such section  
10 1977A, shall be the powers, remedies, and proce-  
11 dures this Act provides to the Commission, the At-  
12 torney General, the Librarian of Congress, or any  
13 person alleging such practice (not an employment  
14 practice specifically excluded from coverage under  
15 section 1977A(a)(1) of the Revised Statutes).

16 (f) PROHIBITION AGAINST RETALIATION.—

17 (1) IN GENERAL.—No person shall discriminate  
18 against any employee because such employee has op-  
19 posed any act or practice made unlawful by this Act  
20 or because such employee made a charge, testified,  
21 assisted, or participated in any manner in an inves-  
22 tigation, proceeding, or hearing under this Act.

23 (2) PROHIBITION AGAINST COERCION.—It shall  
24 be unlawful to coerce, intimidate, threaten, or inter-  
25 fere with any individual in the exercise or enjoyment

1 of, or on account of such individual having exercised  
2 or enjoyed, or on account of such individual having  
3 aided or encouraged any other individual in the exer-  
4 cise or enjoyment of, any right granted or protected  
5 by this Act.

6 (3) REMEDY.—The remedies and procedures  
7 otherwise provided for under this section shall be  
8 available to aggrieved individuals with respect to vio-  
9 lations of this subsection.

10 (g) LIMITATION.—Notwithstanding subsections  
11 (a)(3), (b)(3), (c)(3), (d)(3), and (e)(3), if an unlawful em-  
12 ployment practice involves the provision of a reasonable  
13 accommodation pursuant to this Act or regulations imple-  
14 menting this Act, damages may not be awarded under sec-  
15 tion 1977A of the Revised Statutes (42 U.S.C. 1981a) if  
16 the covered entity demonstrates good faith efforts, in con-  
17 sultation with the employee with known limitations related  
18 to pregnancy, childbirth, or related medical conditions who  
19 has informed the covered entity that accommodation is  
20 needed, to identify and make a reasonable accommodation  
21 that would provide such employee with an equally effective  
22 opportunity and would not cause an undue hardship on  
23 the operation of the covered entity.

1 **SEC. 4. RULEMAKING.**

2 Not later than 2 years after the date of enactment  
3 of this Act, the Commission shall issue regulations in an  
4 accessible format in accordance with subchapter II of  
5 chapter 5 of title 5, United States Code, to carry out this  
6 Act. Such regulations shall provide examples of reasonable  
7 accommodations addressing known limitations related to  
8 pregnancy, childbirth, or related medical conditions.

9 **SEC. 5. DEFINITIONS.**

10 As used in this Act—

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

13 (2) the term “covered entity”—

14 (A) has the meaning given the term “re-  
15 spondent” in section 701(n) of the Civil Rights  
16 Act of 1964 (42 U.S.C. 2000e(n)); and

17 (B) includes—

18 (i) an employer, which means a per-  
19 son engaged in industry affecting com-  
20 merce who has 15 or more employees as  
21 defined in section 701(b) of title VII of the  
22 Civil Rights Act of 1964 (42 U.S.C.  
23 2000e(b));

24 (ii) an employing office, as defined in  
25 section 101 of the Congressional Account-  
26 ability Act of 1995 (2 U.S.C. 1301) and

1 section 411(c) of title 3, United States  
2 Code;

3 (iii) an entity employing a State em-  
4 ployee described in section 304(a) of the  
5 Government Employee Rights Act of 1991  
6 (42 U.S.C. 2000e–16c(a)); and

7 (iv) an entity to which section 717(a)  
8 of the Civil Rights Act of 1964 (42 U.S.C.  
9 2000e–16(a)) applies;

10 (3) the term “employee” means—

11 (A) an employee (including an applicant),  
12 as defined in section 701(f) of the Civil Rights  
13 Act of 1964 (42 U.S.C. 2000e(f));

14 (B) a covered employee (including an ap-  
15 plicant), as defined in section 101 of the Con-  
16 gressional Accountability Act of 1995 (2 U.S.C.  
17 1301);

18 (C) a covered employee (including an appli-  
19 cant), as defined in section 411(c) of title 3,  
20 United States Code;

21 (D) a State employee (including an appli-  
22 cant) described in section 304(a) of the Govern-  
23 ment Employee Rights Act of 1991 (42 U.S.C.  
24 2000e–16c(a)); or

1 (E) an employee (including an applicant)  
2 to which section 717(a) of the Civil Rights Act  
3 of 1964 (42 U.S.C. 2000e-16(a)) applies;

4 (4) the term “person” has the meaning given  
5 such term in section 701(a) of the Civil Rights Act  
6 of 1964 (42 U.S.C. 2000e(a));

7 (5) the term “known limitation” means physical  
8 or mental condition related to, affected by, or arising  
9 out of pregnancy, childbirth, or related medical con-  
10 ditions that the employee or employee’s representa-  
11 tive has communicated to the employer whether or  
12 not such condition meets the definition of disability  
13 specified in section 3 of the Americans with Disabil-  
14 ities Act of 1990 (42 U.S.C. 12102);

15 (6) the term “qualified employee” means an  
16 employee or applicant who, with or without reason-  
17 able accommodation, can perform the essential func-  
18 tions of the employment position, except that an em-  
19 ployee or applicant shall be considered qualified if—

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

22 (B) the essential function could be per-  
23 formed in the near future; and

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

1           (7) the terms “reasonable accommodation” and  
2           “undue hardship” have the meanings given such  
3           terms in section 101 of the Americans with Disabil-  
4           ities Act of 1990 (42 U.S.C. 12111) and shall be  
5           construed as such terms are construed under such  
6           Act and as set forth in the regulations required by  
7           this Act, including with regard to the interactive  
8           process that will typically be used to determine an  
9           appropriate reasonable accommodation.

10 **SEC. 6. WAIVER OF STATE IMMUNITY.**

11           A State shall not be immune under the 11th Amend-  
12           ment to the Constitution from an action in a Federal or  
13           State court of competent jurisdiction for a violation of this  
14           Act. In any action against a State for a violation of this  
15           Act, remedies (including remedies both at law and in eq-  
16           uity) are available for such a violation to the same extent  
17           as such remedies are available for such a violation in an  
18           action against any public or private entity other than a  
19           State.

20 **SEC. 7. RELATIONSHIP TO OTHER LAWS.**

21           Nothing in this Act shall be construed to invalidate  
22           or limit the powers, remedies, and procedures under any  
23           Federal law or law of any State or political subdivision  
24           of any State or jurisdiction that provides greater or equal

1 protection for individuals affected by pregnancy, child-  
2 birth, or related medical conditions.

3 **SEC. 8. SEVERABILITY.**

4       If any provision of this Act or the application of that  
5 provision to particular persons or circumstances is held  
6 invalid or found to be unconstitutional, the remainder of  
7 this Act and the application of that provision to other per-  
8 sons or circumstances shall not be affected.

○