

HOUSE BILL REPORT

E2SSB 5217

As Reported by House Committee On:
Labor & Workplace Standards

Title: An act relating to expanding pregnancy-related accommodations.

Brief Description: Expanding pregnancy-related accommodations.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Nobles, Lovelett, Hasegawa, Liias, Riccelli, Saldaña, Salomon, Stanford, Trudeau and Wilson, C.).

Brief History:

Committee Activity:

Labor & Workplace Standards: 3/19/25, 3/26/25 [DPA].

**Brief Summary of Engrossed Second Substitute Bill
(As Amended by Committee)**

- Requires the Department of Labor and Industries to enforce the requirements for workplace accommodations for pregnancy-related conditions, rather than the Attorney General's Office.
- Requires employers with less than 15 employees and religious organizations to comply with the requirements for workplace accommodations for pregnancy-related conditions, in addition to employers with 15 or more employees as provided in current law.
- Specifies that employers must pay employees at their regular compensation rate for any breaks for expressing breast milk, and provides that those breaks are in addition to other required meal and rest breaks.
- Requires a court to grant a request for a delay or excusal from jury service for a person who is breastfeeding or expressing breast milk for an infant under 24 months old.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass as amended. Signed by 7 members: Representatives Berry, Chair; Fosse, Vice Chair; Scott, Vice Chair; Schmidt, Ranking Minority Member; Bronoske, Obras and Ortiz-Self.

Minority Report: Without recommendation. Signed by 2 members: Representatives Ybarra, Assistant Ranking Minority Member; McEntire.

Staff: Kelly Leonard (786-7147).

Background:

Workplace Accommodations for Pregnancy-Related Conditions.

It is an unfair practice for an employer to fail to make reasonable accommodations for an employee's pregnancy or pregnancy-related health conditions, including the need to express breast milk, unless the employer can demonstrate that doing so would impose an undue hardship on the employer's program, enterprise, or business.

Employers. The requirement applies to any employer with 15 or more employees, but does not include any religious or sectarian organization not organized for private profit.

Reasonable Accommodation. "Reasonable accommodation" means:

- providing more frequent, longer, or flexible restroom breaks;
- modifying a no-food or no-drink policy;
- job restructuring;
- modifying work schedules;
- reassigning the employee to a vacant position;
- acquiring or modifying equipment, devices, or an employee's work station;
- providing seating or allowing the employee to sit more frequently;
- providing for a temporary transfer to a less strenuous or less hazardous position;
- providing assistance with manual labor and limits on lifting;
- scheduling flexibility for prenatal visits;
- providing reasonable break time for an employee to express breast milk for two years after the child's birth, and providing a private location, other than a bathroom, if such a location exists at the place of business or worksite, or if the business location does not have such a space, the employer must work with the employee to identify a convenient location and work schedule to accommodate his or her needs; and
- any further pregnancy accommodation an employee may request and to which an employer must give reasonable consideration.

Undue Hardship. "Undue hardship" means an action requiring significant difficulty or expense. However, an employer may not claim undue hardship for accommodations on providing more restroom breaks, modifying a no-food or no-drink policy, providing seating

or allowing the employee to sit more often if the employee's job requires standing, or for providing limits on lifting over 17 pounds.

Enforcement. The Attorney General's Office (AGO) has jurisdiction to investigate complaints and enforce the reasonable accommodation provisions. In addition to the complaint process through the AGO, an aggrieved person has a civil cause of action in court to enjoin further violations and recover the actual damages, plus reasonable attorneys' fees and costs.

These provisions do not preempt or limit any other provision relating to pregnancy or diminish or limit legal protections for pregnancy or pregnancy-related health conditions.

Jury Duty.

A person is qualified to be a juror if that person is over age 18, a United States citizen, a resident of the county of service, able to communicate in English, and has not been convicted of a felony for which civil rights have not been restored. Jurors are randomly selected from a jury source list made up of the list of registered voters, licensed drivers, and identocard holders in each county. The court sets the length and number of jury terms within a 12-month period, subject to statutory requirements.

A person may not be excused from jury service except upon a showing of undue hardship, extreme inconvenience, public necessity, or any reason deemed sufficient by the court for a period of time the court deems necessary. However, the court must grant a request for excusal from a person who is 80 years of age or older if the person attests that he or she is unable to serve due to health reasons.

A prospective juror excused from juror service for a particular time may be assigned to another jury term. When the jury source list has been fully summoned and additional jurors are needed, jurors who have already served may be summoned again for service. A juror who has previously served may be excused if he or she served at least one week of juror service within the preceding 12 months.

Summary of Amended Bill:

Workplace Accommodations for Pregnancy-Related Conditions.

The provisions governing workplace accommodations for pregnancy-related conditions are shifted to a new chapter in Title 49 RCW.

Employers. The definition of employer is expanded to also include any employer who employs one or more persons and any religious or sectarian organization not organized for private profit, thereby subjecting those employers to the requirements regarding workplace accommodations for pregnancy-related conditions.

Reasonable Accommodation. The definition of reasonable accommodation is expanded to include scheduling flexibility for postpartum visits.

For purposes of reasonable break times and locations for an employee to express breast milk, those break times and any time spent travelling to the private location must be paid to the employee at his or her regular compensation rate. The employee must not be required to use paid leave during the break or travel time, and these breaks are in addition to any meal and rest periods required by the Industrial Welfare Act.

Enforcement. The authority for the AGO to enforce the provisions is removed; instead, the Department of Labor and Industries (L&I) is directed to enforce the provisions. Prior to issuing any order, L&I must first contact the employer and attempt in good faith to reach agreement on reasonable accommodation or interim accommodation. If L&I and the employer are unable to reach agreement, L&I may issue a temporary order immediately restraining any such condition, practice, method, process, or means in the workplace that violates the requirements. This temporary order may be in effect no longer than 90 calendar days. To extend the order beyond 90 calendar days, L&I must seek a restraining order, or other such relief as appears appropriate under the circumstances, in the superior court of the county wherein such condition of employment or practice exists. L&I may assess civil penalties for a violation.

L&I must adopt rules for purposes of implementing and enforcing the bill, including rules establishing processes for enforcement, appeals, and collections. The rules must be at least equal to enforcement of the protections provided in the Minimum Wage Act.

Jury Duty.

A court must grant a request for a delay or excusal from jury service if the person is breastfeeding or expressing breast milk for an infant under 24 months old. The court must develop an attestation form for this purpose, which may not include a requirement for a doctor's note.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill requires a court to grant a request for a delay or excusal from jury service if a person is breastfeeding or expressing breast milk for an infant under 24 months old, rather than requiring the court to such a request for any person with an infant under 12 months old.

The amended bill adds a short title to the provisions pertaining to reasonable accommodations for pregnancy-related conditions, providing that the applicable new chapter may be known and cited as "The Healthy Starts Act."

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on January 1, 2027.

Staff Summary of Public Testimony:

(In support) In 2017 the state established requirements to provide reasonable accommodations for pregnancy-related conditions, but limited it to larger employers. This bill ensures that any pregnant or postpartum worker will receive reasonable accommodations regardless of the size of the employer. These accommodations are important, and yet are not consistently provided by all employers. Employers can easily provide these accommodations, which include, for example, allowing a worker to sit more frequently or to have access to a water bottle. The bill borrows language from Georgia and other states that requires employers to compensate employees for breaks used for expressing breast milk. The bill also contains provisions pertaining to jury duty. Courts do not provide clean spaces for expressing breast milk and do not waive jury duty requirements. Over 20 states already exempt breastfeeding parents from jury duty, and Washington should do the same.

(Opposed) None.

(Other) The AGO has concerns about shifting the enforcement provisions to L&I. The requirement to provide reasonable workplace accommodations is a unique body of law, and the AGO has been effective at enforcing it. L&I is not the appropriate agency for enforcement, and workers may be put at risk by this change.

Persons Testifying: (In support) Nancy Sapiro, Washington Employment Lawyers Association; Brooke Iverson, Teamsters 174; and Ellie Klein, PEPS.

(Other) Chalia Stallings-Ala'ilima, Attorney General's Office.

Persons Signed In To Testify But Not Testifying: None.