

# Bump in the Road: Federal Judge Selectively Halts Enforcement of the Pregnant Workers Fairness Act in Texas

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In a recent decision, a federal judge in the U.S. District Court for the Northern District of Texas suspended enforcement of the Pregnant Workers Fairness Act (PWFA) with respect to public employers in the state.

This decision, issued on February 27, 2024, stemmed from the judge's ruling that the PWFA's enactment by Congress contravened the quorum requirements outlined in the U.S. Constitution. While this decision has garnered much interest and should be carefully considered by employers, it is important to note that the ruling only affects the State of Texas and its agencies in their capacity as employers. Private employers in Texas (and the rest of the U.S.) must still adhere to the PWFA's requirements.

## Legislative Background

On December 23, 2022, Congress passed the PWFA as part of the Consolidated Appropriations Act of 2023 (the "Act"). The House of Representatives (the "House") passed the Act with 225 "yeas," constituting a majority vote. However, fewer than half of the House members voted in person, with 226 representatives voting by proxy. Proxy voting is a technique that members use to designate another member to cast their vote on their behalf.

By way of background, the U.S. Constitution [requires](#) that a quorum be present on the House floor when the House transacts business. A quorum constitutes a majority of the House, thus requiring at least 218 out of the 435 representatives to be present. Generally, House rules stipulate that every member must be present during floor sessions (unless excused), and voting by proxy is prohibited. However, in response to the COVID-19 pandemic, in May 2020, the House adopted a [resolution](#) authorizing proxy voting to ensure the safety of members and staff.

Throughout the 117th Congress, the House maintained its use of proxy voting in establishing a quorum. During the vote on the PWFA, a majority of representatives opted for proxy voting, with their votes contributing towards the quorum. At the time, no member raised objections regarding the lack

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of a quorum.

On December 29, 2022, President Biden [signed](#) the PWFA into law.

## Overview of the PWFA

As explained in our previous [article](#), the PWFA enhances protections for pregnant employees in the workforce. Modeled after the Americans with Disabilities Act (ADA), the PWFA mandates that employers with 15 or more employees provide reasonable accommodations to pregnant employees or job applicants facing limitations due to pregnancy, childbirth, or related medical conditions. These accommodations may include modified work schedules, temporary reassignments, or adjustments to work duties tailored to meet the employee's needs. However, employers are not obligated to provide accommodations if doing so would impose an undue hardship.

A key aspect of the PWFA is its emphasis on engaging in the interactive process, which is similar to that outlined in the ADA. This collaborative process requires employers to work closely with pregnant employees to identify appropriate accommodations. By fostering this collaboration, employers and pregnant employees can cultivate a supportive work environment where the employee can continue working safely and effectively throughout her pregnancy.

## The Blocked Enforcement of the PWFA in Texas

In *State of Texas v. Merrick Garland, et al.*, the court issued an order blocking the enforcement of the PWFA against the State of Texas and its agencies. This decision was made on the basis that the Act's passage through proxy voting violated the Constitution's quorum clause.

It's important to note that the court's injunction does not invalidate the PWFA on a nationwide basis and does not broadly apply to private employers. Rather, the injunction specifically targets enforcement against the State of Texas (and its agencies) in its capacity as an employer.

However, the reasoning behind this decision may be applied in future challenges to the PWFA. And, private employers accused of violating this law may potentially raise the lack of quorum argument as a defense to such claims.

## Recommendations to Employers

Although the PWFA may not currently be enforceable against the State of Texas, it remains imperative that private employers nationwide — including those in Texas — adhere to its requirements. Prioritizing compliance with the PWFA is fundamental in complying with the law and cultivating a workplace culture that champions the rights and well-being of pregnant employees.

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