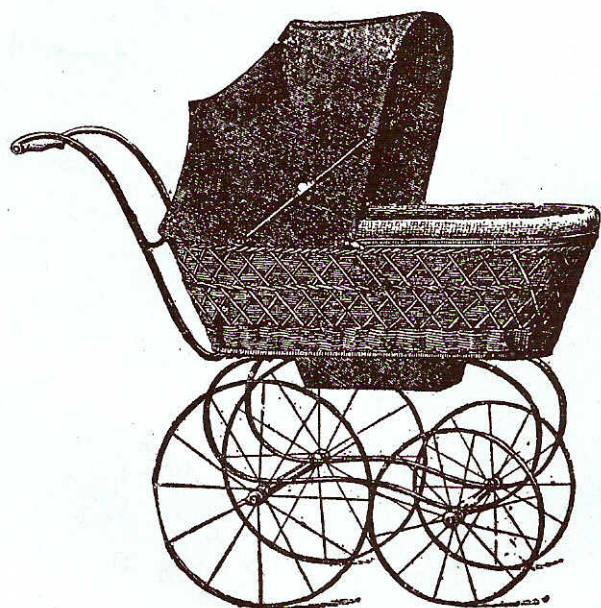


Pregnant + On The Job
is a working mama's guide to the law;
it outlines your basic legal rights and
protections during and after pregnancy.

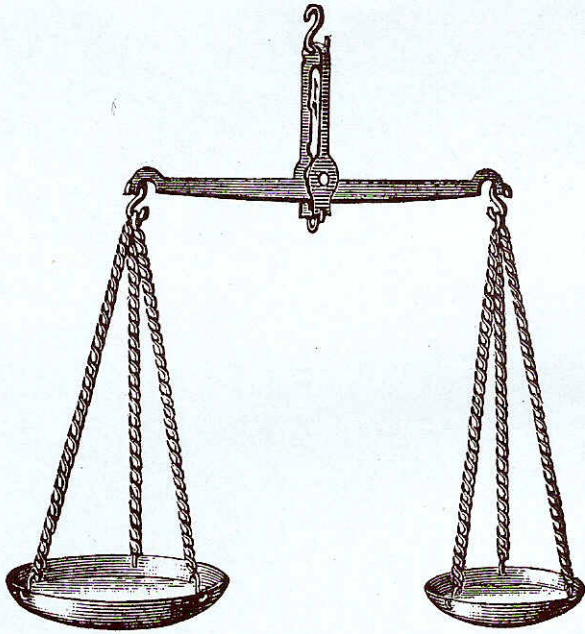


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PREGNANT & ON THE JOB

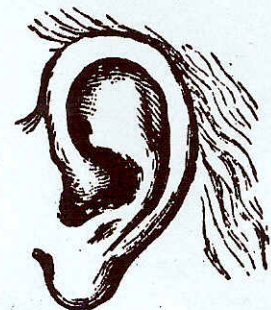


YOUR LEGAL RIGHTS



What's in this zine:

- p. 2 **The First Big Law You Need to Know:**
The CRA, which might protect you from pregnancy based discrimination.
- p. 3 **The Second Big Law You Need to Know:**
The FMLA, which might allow you to get up to twelve weeks off for childcare or pregnancy related illness
- p. 4 **What to do if your employer breaks a law & A Note on State Laws:** Some states grant you further rights.
- p. 5 **A Little Bit O' History** (or: You've Come A Long Way, Baby)
- p. 7 **Resources** for further help, research, and support.



Resources for further help, research, and support.

The Equal Employment Opportunity Commission (EEOC). These are the folks you contact if you want to file a discrimination complaint, or for more info on discrimination; they are in charge of enforcing the Civil Rights Act (CRA) which prohibits discrimination on the basis of sex (which covers pregnancy, childbirth, and related medical conditions). For more information call 1-800-669-4000 (TDD 1-800-669-6820) or go to www.eeoc.gov. Helpful info on filing a complaint can be found by calling that number or at www.eeoc.gov/charge/overview_charge_filing.html.

The Department of Labor (DOL). These are the people you contact to find out more about the Family and Medical Leave (FMLA). For general info and help, call their helpline at 1-866-487-9243 or visit www.dol.gov/esa/whd/fmla. They also have local offices called "Wage-Hour Offices" which is where you actually file FMLA complaints; to find the one nearest you, call 1-866-4USWAGE or look at www.wagehour.dol.gov.

The DOL's Women's Bureau. A federal agency whose mission it is to "promote the welfare of wage-earning women, improve their working conditions, increase their efficiency, and advance their opportunities for profitable employment." For more info, call 1-800-827-5335 or look at www.dol.gov/wb/contacts/main.htm.

The 'Lectric Law Library ("The Net's Finest Legal Resource For Legal Pros and Laypeople Alike."). This is only available online. It's a funny, fantastic website filled with info on any law you want more info on, pregnancy-related or not.

Everything a Working Mother Needs to Know About Pregnancy Rights, Maternity Leave, and Making Her Career Work For Her. A lovely book by two mothers (Carol Buckler and Anne Weisberg) who work as lawyers. Definitely a fun and recommended read if you're grappling with any of the issues that arise from becoming or being a working mom. Check your local library or bookstore, or order from the internet, where apparently it goes for less than a dollar! (Plus shipping, of course; see www.amazon.com).

The Washington State Human Rights Commission. If you live in Washington, this is where to research and get help with state employment discrimination laws. Online at www.hum.wa.gov/employer/.

Oregon's Bureau of Labor and Industries, Civil Rights Division. If you live in Oregon, this is where to research and get help with state employment discrimination laws. Online at www.oregon.gov/BOLI/CRD/C_Crprotoc.shtml

Me. If you want to get in touch with questions, corrections, or to distribute or order more copies of this zine, please do! E-mail me at nora@tao.ca.

Ladies, ladies, who are gonna have a baby, but have to pay the bills – what to do, what to do?

Quit the job, change the job, freelance, take leave, be 'Stay-At-Home,' job share, pull out your hair, read Hip Mama Magazine, take a break until you wean – so many options! (Or maybe, not enough.)

And as if the decisions that come up from being pregnant and on the job weren't tough enough socially, emotionally, and financially, they're tricky legally too.

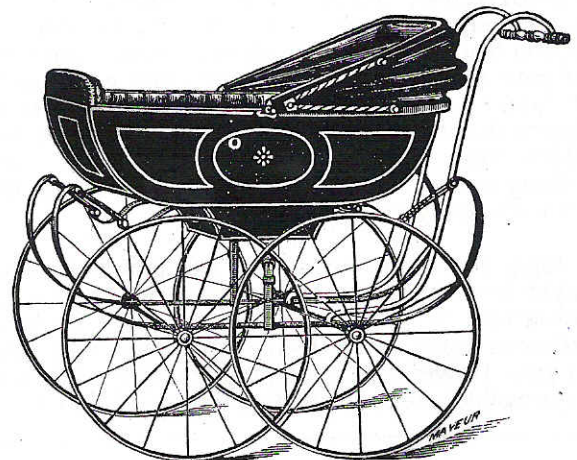
If you have a job and find out that you're pregnant, it's smart to wait to tell your boss and coworkers that you're pregnant until you have researched your legal rights, and have an idea of what kind of leave situation you would like to arrange.

But the relevant laws aren't necessarily user-friendly. The EEOC, the CRA, the PDA, the ADA, the DOL, the FMLA, Title VII, FEPAs; bed rest, maternity leave, flex time, paid leave, unpaid leave, temporary disability insurance, intermittent leave, disability leave-- whaaa?

Fear not! This little zine is here to analyze, synthesize, and deliver to you the basic legal goods on pregnancy, babies, and work: what the laws are, who's eligible, what they do for you, and what to do if your employer breaks them.

In fact, once you've read this zine, you might have a better grasp of the legal basics than your boss! Many sources I read say that the rise of pregnancy-discrimination-based lawsuits and legal complaints is in large part due to the ignorance of employers, who don't realize what they are and aren't allowed to do – proof that you shouldn't rely on your boss to look out for you!

So read on – and hopefully, once you're through, you'll feel a little more confident about your rights and options, and you'll know where to go if you need to learn more.



The First Big Law You Need to Know:

The CRA

Full Name: The Civil Rights Act

Year of birth: 1964; updated to include pregnancy in 1978.

Stated purpose: "To prevent discrimination . . . , to establish a Commission on Equal Employment Opportunity, and for other purposes."

The basics: This law is protective; it promotes equality of opportunity in employment and other areas by stopping discrimination.

Enforced by: The Equal Employment Opportunity Commission, commonly known as the EEOC.

What the law says: If you are covered by this law (see below), you have to be given the same rights as any other employee who has a temporary disability.

If you temporarily can't perform your job because of your pregnancy, your boss has to approach job modification or leave the same way they do for employees with temporary disabilities.

You have to be allowed to work as long as you can perform your job, before and after the birth of your child.

If you have health insurance under your job, pregnancy-related health expenses have to be covered the same as those incurred from other medical conditions. Benefits, seniority, vacation calculation, pay increases, and temporary disability benefits all have to be provided on the same basis as they are provided to other temporarily disabled employees.

You are entitled to pregnancy-related benefits whether or not you are married.

An employer can't refuse to hire you because you're pregnant, and it is illegal for them to ask you if you are pregnant or plan to have children.

Your boss isn't allowed to retaliate against you for standing up for your rights under the CRA.

Who is covered by this law: Unfortunately, the CRA doesn't cover everyone. You are only eligible for protection from employment discrimination under the CRA if your employer has **fifteen or more** employees, or if you work for the federal government. Employment agencies and labor organizations are also forbidden from discriminating under this law. The good thing about this law is that it applies to you the moment you apply for a job.

How long you have to file a complaint if your employer breaks this law: **180 days** from the date of the violation, or **300 days** if your state or local government have an anti-discrimination law that covers you. However, it's good to contact the EEOC as soon as possible after you are discriminated against.

stressed not only by many women, some of them with their kids in tow, but big organizations, like the Service Employees International Union of the AFL-CIO, the National Organization of Women, the Independent Insurance Agents of America, the Women's Legal Defense Fund, and the National Association of Women Business Owners.

In 1993, the Family and Medical Leave Act was signed into law by President Bill Clinton "to help Americans balance their work and family responsibilities in an era when most households are headed either by two working parents or by single mothers," in response to the economic and social changes of the previous decade.

Despite some concern from businesses, the FMLA transitioned into action smoothly and successfully. According to a government response published in 1996 to report on the impact of the FMLA, "the great majority of companies reported no or only minor new costs." In fact, some businesses reported "reduced employee turnover, enhanced employee productivity and improved morale which they attribute to the FMLA."

Today, economic and employment trends have continued to change. Women are almost half of the total workforce in America, and tend to have kids later in life than they used to. The average age American women were when they had their first child has changed from 21 years old in the year 1970 to 25 years old in the year 2000.

However, pregnancy discrimination is still blatant. In fact, it's getting worse. In the past ten years, the birthrate fell by almost ten percent, but the number of pregnancy discrimination complaints filed with the EEOC have increased almost forty percent.

In February 2005, *USA Today* published an article called "Pregnant Workers Report Growing Discrimination." The article reported that, in a study published in the *Journal of Business and Psychology* in 1997, half of the pregnant women interviewed said that their bosses reacted negatively to their pregnancies, or, if the women were bosses or managers themselves, their subordinates became "upset or hostile." To make things worse, their co-workers made unhelpful comments, like, "Why are you eating so much?" or, "Do you have stretch marks yet?"

In another study cited in the *USA Today* article, this one published in the *Journal of Organizational Behavior* in 1993, "pregnant and non-pregnant women performed tasks that were rated by college students drafted for the research. While both subjects performed the same, those who were pregnant consistently received lower performance ratings [and] were viewed as overly emotional, often irrational, physically limited and less than committed to their jobs, according to the report."

Most women are surprised that pregnancy discrimination is still an issue, but, unfortunately, it is. This is a demoralizing, discouraging, and annoying thing. However, the bottom line is that most workers are legally entitled to protections and rights that help make balancing work and family a little less difficult, no matter what your jerky boss or coworker wants.

A Little Bit O' History: You've Come A Long Way, Baby

So why are there two different federal pregnancy-related laws, anyhow? Wouldn't it be simpler just to have one? The answer lies in the history of the pregnancy rights movement.

In 1964, after decades of popular and legal campaigning, the US Federal government passed the Civil Rights Act, a law to address the discrimination, segregation, and disenfranchisement that had been continuously perpetuated against African-Americans. The CRA outlawed discrimination on the basis of race, color, sex, religion, or nationality. Title VII of the CRA specifically addressed employment discrimination.

Until 1978 (a glorious year, for it also birthed your humble author!), there were no legal protections for working mothers. Usually, pregnancy meant no more job: you were either fired or quit. From 1968-78, during the height of the women's lib movement, more than half of all women quit their jobs when they found out they were pregnant; today, only a quarter do.

During the seventies, a series of court cases by women whose employers had fired or demoted them because of their pregnancies worked their way up to the Supreme Court, attracting increased attention to the problem. More and more women were working, and the civil rights and feminist movements had demonstrated how to combine legal and popular pressure to affect change. The NOW Legal Defense and Education Fund and its Campaign to End Discrimination Against Pregnant Workers became part of a building coalition campaigning for pregnant workers' rights.

Although some of the Supreme Court cases of the seventies ruled against the women plaintiffs, ultimately those cases were overturned when, finally, in 1978, the government passed the Pregnancy Discrimination Act, which amended the Civil Rights Act of 1964 to include pregnancy, childbirth, and related medical conditions in the category of sex discrimination. This amendment to the CRA passed in 1978 with the widespread support of most feminist organizations. This was a big change for pregnant workers; they now had legal recourse when they were discriminated against by their employers.

During the eighties, however, as more and more families became two-income households, women still had problems balancing work and family. As Jocelyn Frye, the Director of Legal and Public Policy for the National Partnership for Women and Families, and the Chair of the National Employment Task Force of the Leadership Conference on Civil Rights (phew!) said, "In terms of making sure that the workplace truly was a place that accommodated the needs of both men and women, and balancing their work and family obligations, the PDA standing alone didn't do all that it needed to do."

In response to increased popular pressure, the government held hearings in 1987 to discuss the prospect of a family and medical leave act. These hearings included statements by a huge list of people giving their views. The need for such an act was

The Second Big Law You Need to Know:

The FMLA

Full Name: The Family and Medical Leave Act

Year of birth: 1993.

Stated purpose: "To grant family and temporary medical leave under certain circumstances."

The basics: This law is affirmative; it promotes special leave-related rights for workers with families or serious health conditions.

Enforced by: The Department of Labor, commonly known as the DOL; complaints are investigated by the DOL's Wage and Hour Division.

What the law says:

If you are covered by this law (see below), the FMLA requires your boss to let you have up to twelve weeks per year of unpaid, job-protected leave to care for your child after birth, to care for any immediate family member who has a serious health condition, or if you have a health condition serious enough that you can't perform your job.

During the leave, your boss has to maintain any health coverage you have under the job, and when you return to work, you must be either given your original job back or one with equivalent pay and benefits. If you accumulated any employment benefits before your leave, they can't be taken away from you because you took FMLA-enforced leave.

If you are pregnant, you are eligible for "intermittent leave" under the FMLA. This means that you can take the twelve weeks of FMLA leave in separate chunks of time, for example, for prenatal care exams or episodes of bad morning sickness. The FMLA also lets you change your work schedule temporarily, usually from full-time to part time.

If you know you're going to need this leave, you need to give your boss notice of it thirty days before you leave. Your boss has the right to require certification from your doctor if you ask for leave because of a serious health condition, and also after your leave is over to have proof that you're okay to work again.

Your boss isn't allowed to retaliate against you for standing up for your rights under the FMLA.

Who is covered by this law: The FMLA covers far fewer workers than the CRA. You are only eligible for the rights granted by the FMLA if your employer has **fifty or more** employees within 75 miles or if you work for a local, state, or federal government agency or if you are a teacher (public, private, elementary, and secondary schools are all covered). In addition, you are only eligible if you have worked for your employer for **a year or more** (and for 1250 hours in the last twelve months).

How long you have to file a complaint if your employer breaks this law: No more than two years since the last date of the violation.

What to do if your employer breaks a law:

Document everything that happened: time, date, place, who was there, who said what, etc. If there's any written proof – emails, memos, or anything like that, make sure you hang on to copies at home. Also hang on to any job evaluations you receive or anything that shows that you are a good worker – because, unfortunately, sometimes when you file a complaint, your boss might just argue that you weren't doing a good job; this will help you prove them wrong.

Get support from families and friends. Take care of yourself, and know you're not alone. Talk to other pregnant workers or mothers to find out how they were treated at work.

Do research. Talk to your union representative, if you have one, to see if they have rules to help you. Look in your employee handbook to see if your company has policies on pregnancy, temporary disability leave, or discrimination complaint procedures. And, finally, find out your legal rights – this zine is a good place to start. The internet is helpful for this: the **Resources** page has the EEOC and DOL websites, which contain more information on the laws, and the websites of the relevant Oregon and Washington state agencies.

File a complaint. Contact the EEOC or the DOL or your state agency to file a complaint (see pp. 2-3 to figure out which agency to contact, and see the **Resources** page for contact info). They'll want your name, address, and phone number, the same for your employer, a short description of the event that caused you to believe your rights were violated, and the dates of the violation.



A Note on State Laws

Some states grant you further rights!

A lot of states have further laws to protect against pregnancy discrimination, and have their own family leave laws on top of federal laws. These laws are usually enforced by agencies called "Fair Employment Practices Agencies" (FEPAs). You can usually file a complaint either with your state FEPA or with the federal EEOC. Check out the **Resources** page on the back of this zine for contact info for the **Washington** and **Oregon** agencies that deal with their state anti-discrimination laws.

If you live in **California, Hawaii, New Jersey, New York, or Rhode Island**, you might be extra lucky! These states have laws that give what is called "temporary disability insurance," which in conjunction with employers (larger ones in particular – look at your benefits to see if this applies to you), pay part of your wages if you have to take time off from work for pregnancy.

