

# Congress Violated U.S. Constitution When It Passed Pregnant Workers Fairness Act, Texas Court Rules

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## Meet the Authors



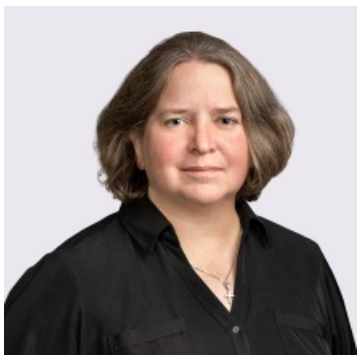
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Congress improperly passed the Consolidated Appropriations Act of 2023, including the Pregnant Workers Fairness Act (PWFA), a federal court in Texas has ruled. [State of Texas v. Department of Justice et al.](#), No. 5:23-cv-00034 (N.D. Tex. Feb. 27, 2024). The court permanently enjoined the Equal Employment Opportunity Commission (EEOC) and Department of Justice from enforcing the PWFA against the State of Texas and its agencies.

### PWFA

The PWFA was permanent legislation included in the Consolidated Appropriations Act of 2023 signed by President Joe Biden on Dec. 29, 2022, and [went into effect on June 27, 2023.](#)

The law requires employers (including state government employers) with at least 15 employees to provide reasonable accommodations to employees and applicants with known limitations related to pregnancy, childbirth, or related medical conditions.

### Lawsuit

The State of Texas filed suit against the federal government shortly after President Biden signed the Consolidated Appropriations Act, claiming the PWFA could not be enforced against it because Congress violated the U.S. Constitution when it passed the bill without the quorum as required in the Constitution.

### Texas Court Decision

In a 120-page decision, the court agreed that Congress violated the Constitution when it relied on the COVID-19-pandemic-era rule, adopted by the House of Representatives in 2020, that permitted non-present members of Congress to be included in the quorum count and vote by proxy.

The court said, “[B]y including members who were indisputably absent in the quorum count, the Act at issue passed in violation of the Constitution’s Quorum Clause.”

The scope of the court’s injunction is narrow. The EEOC and other federal agencies are enjoined only from enforcing the PWFA against the State of Texas. The injunction does not extend to any private employers or other governmental employers. Others are not prevented from making the same argument however.

### Next

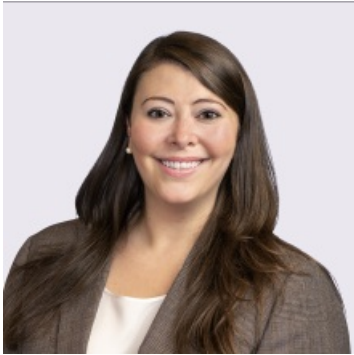
The court stayed its order for seven days to allow the federal government to appeal. The federal government is expected to appeal to the U.S. Court of Appeals for the Fifth Circuit. Additionally, the court’s decision does not impact civil rights laws, such as the Americans With Disabilities Act, Title VII of the Civil Rights Act, and the

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Pregnancy Discrimination Act. Indeed, the EEOC provided notice that, after June 27, 2023, the agency will analyze charges regarding accommodations for workers affected by pregnancy, childbirth, or related medical conditions under the PWFA (if the violation occurred after June 27, 2023) and, where applicable, under the ADA or Title VII as well.

Jackson Lewis attorneys will continue to monitor these developments, as well as the status of the EEOC's final regulations implementing the PWFA. The law requires the EEOC to issue regulations by Dec. 29, 2023. The EEOC published [proposed regulations](#) in the Federal Register on August 11, 2023. More than [100,000 public comments](#), including [those from Jackson Lewis P.C.](#), were submitted to the EEOC. The [Office of Information and Regulatory Affairs received the text](#) of the final regulations for review on December 27. There is no clear timeline as to when the EEOC will publish final regulations.

If you have questions about the PWFA or what these developments mean in your workplace, please contact a Jackson Lewis attorney.

## Related Services

Disability, Leave and Health  
Management

National Compliance and Multi-State  
Solutions

Pregnant Workers Fairness Act and

FMLA for Nursing Mothers Act

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