

Introduction

Women in the workplace continue to navigate significant challenges related to gender equality, with maternity leave and job protection being areas of persistent concern. Legal frameworks like the Family and Medical Leave Act (FMLA) and the Pregnancy Discrimination Act (PDA), alongside landmark cases such as *Young v. United Parcel Service, Inc.*¹ have played pivotal roles in shaping the landscape of maternity leave and workplace accommodations, reinforcing the need for consistent and equitable workplace accommodations for pregnant employees. Despite these advancements, gaps remain in achieving true gender equality, underscoring the need for further reform.

Legal Protections Under the FMLA

The Family and Medical Leave Act (FMLA) was enacted in 1993 to provide critical legal protections for employees needing time off for family and medical reasons, including maternity leave.² The FMLA provides several key legal protections related to maternity leave for eligible employees in the United States. These protections ensure that employees can take time off for childbirth and related needs without fear of losing their jobs or health insurance. Eligible employees are entitled to up to 12 work weeks of unpaid leave within a 12-month period for the birth of a child and to care for the newborn child within the first year after birth.³ Employees are guaranteed reinstatement to their same or an equivalent position upon returning from leave, and their equivalent position must have the same pay, benefits, and working conditions. Employers must maintain the employee's group health insurance coverage under the same terms as if the employee were actively working.⁴ FMLA leave can also be used for pregnancy-related medical

¹ 575 U.S. 206 (2015)

² U.S. Dep't of Labor, *Fact Sheet #28: The Family and Medical Leave Act (FMLA)*, Wage and Hour Division, <https://www.dol.gov/agencies/whd/fact-sheets/28-fmla>

³ *Id.*

⁴ *Id.*

conditions, including prenatal care, severe morning sickness, and pregnancy-related complications that result in the employee being unable to perform the essential functions of their job. This portion of the leave can begin before the birth of the child if needed for medical reasons.⁵ Employees may take FMLA leave intermittently (in separate blocks of time) or on a reduced schedule (fewer hours per day or week) for serious health conditions related to pregnancy and medical appointments, treatment, or prenatal care.⁶ Employers are prohibited from retaliating against employees who exercise their rights under the FMLA. Retaliation includes terminating, disciplining, or discriminating against an employee for taking FMLA leave and interfering with or denying the exercise of FMLA rights.⁷ The FMLA's guarantee of jobprotected

leave ensures that women do not have to choose between retaining employment and taking time off to recover from childbirth or care for a newborn. By requiring employers to maintain group health insurance coverage, the FMLA helps alleviate the financial strain of healthcare costs for women and their families during and after pregnancy.

Challenges and Limitations

While FMLA has significantly advanced maternity leave rights, it is not without limitations. The FMLA's unpaid nature disproportionately affects low-income women who

cannot afford to take time off without pay, forcing many to return to work prematurely.⁸ Eligibility restrictions, such as the requirement to work for a covered employer (50 or more employees) and the tenure and hours thresholds, an employee must have worked for the employer for at least 12 months and must have worked at least 1,250 hours for the employer during the 12 months immediately preceding the start of the leave, exclude many women—especially those in part-time or low-wage jobs.⁹ As a result, nearly **44% of the U.S. workforce** cannot access FMLA protections.¹⁰ Women of color, who are more likely to work in low-wage and part-time jobs, face greater barriers to accessing FMLA protections.¹¹

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ National Partnership for Women & Families, *Key Facts: The Family and Medical Leave Act (FMLA)*, <https://nationalpartnership.org/report/fmla-key-facts/>, (February, 2023).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Also, while intermittent leave is permitted for medical needs, intermittent or reduced schedule leave for bonding with a newborn requires the employer's consent.¹² This exception makes it harder for women to manage family responsibilities while gradually returning to work.

Legal Influences: *Young*, the PDA and the PWFA

The Pregnancy Discrimination Act (PDA) was enacted in 1978 as an amendment to Title VII of the Civil Rights Act and prohibits discrimination "on the basis of pregnancy, childbirth, or related medical conditions" and requires that "women affected by pregnancy...be treated the same for all employment-related purposes...as other persons not so affected but similar in their ability or inability to work."¹³ Many cases after the enactment of the PDA have shaped the legal landscape for workplace equality and set legal precedents.

For example, in *California Federal Savings & Loan Association v. Guerra*¹⁴, a California law required employers to provide unpaid leave and job reinstatement for pregnancy-related disabilities. The United States Supreme Court upheld the law, affirming that states can enact additional protections beyond the federal PDA. This ruling opened the door for states to implement more robust pregnancy and maternity leave protections, such as California's Paid Family Leave program.

The Supreme Court case of *Young v. United Parcel Service, Inc.*¹⁵ was another landmark case that addressed pregnancy discrimination under the PDA. The case arose when Peggy Young, a UPS driver, was denied a light-duty accommodation for her pregnancy-related lifting restriction despite similar accommodations being granted to employees with other medical conditions or work-related injuries. Young sued UPS, alleging that UPS's actions violated the PDA. The Supreme Court ruled in a 6–3 decision that employers must treat pregnant employees the same as others with similar work limitations. The Court established a framework for determining whether an employer's refusal to accommodate pregnant workers constitutes

¹² U.S. Dep't of Labor, *Fact Sheet #28: The Family and Medical Leave Act (FMLA)*, Wage and Hour Division, <https://www.dol.gov/agencies/whd/fact-sheets/28-fmla>

¹³ 42 U.S.C. § 2000e(k) (2018)

¹⁴ 479 U.S. 272 (1987)

¹⁵ 575 U.S. 206 (2015)

discrimination, emphasizing that employers must provide legitimate, non-discriminatory reasons for their policies and cannot rely solely on cost or convenience as justification.

After the holding in *Young*, many national advocacy organizations were dissatisfied with the lack of federal protection for workplace accommodations and they advocated for the adoption of the Pregnancy Workers Fairness Act (PWFA)¹⁶. The Pregnant Workers Fairness Act

(PWFA), which went into effect in June 2024, requires a “covered employer to provide a reasonable accommodation to a qualified employee’s or applicant’s known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship.”¹⁷ The PWFA was a victory in regards to workplace accommodations for pregnant women and a step in the right direction towards gender equality.

Necessary FMLA Reforms

Despite the progress enabled by *Young* and the PWFA, the current state of maternity leave protections in the U.S. remains inadequate. The lack of a national paid leave policy leaves many women without financial support during a critical time. Intersectional disparities further exacerbate inequities, as women of color and low-wage workers are disproportionately excluded from FMLA protections. Additionally, societal norms that place the burden of caregiving primarily on women perpetuate economic and workplace inequalities. To enhance the impact of legal protections on working women, several FMLA reforms should be implemented.

First and foremost, the FMLA needs to be a paid leave program; this would enable more women to take the necessary time off without financial hardship. Women who can afford to take leave are more likely to fully recover postpartum and provide necessary care for their newborns, which has lasting benefits for maternal and child health.¹⁸ States like California, New Jersey, and

¹⁶ A Better Balance, *The Young v. UPS Anniversary Serves as Reminder for Why We Need the Pregnant Workers Fairness Act*, <https://www.abetterbalance.org/the-young-v-ups-anniversary-serves-as-reminder-for-why-we-need-the-pregnant-workersfairness-act/> (March, 2022).

¹⁷ U.S. Equal Emp. Opportunity Comm’n, *What You Should Know About the Pregnant Workers Fairness Act*, <https://www.eeoc.gov/wysk/what-you-should-know-about-pregnant-workers-fairness-act>

¹⁸ Sarah Combs, *Paid Leave Is Essential for Families and the Future of Our Nation*, National Partnership for Women & Families, <https://nationalpartnership.org/report/paid-leave-is-essential-for/> (May 2021)

Rhode Island have successfully implemented paid family leave programs, providing a model for federal legislation.¹⁹

Additionally, FMLA reform should include lowering the employer size threshold by reducing the current threshold from 50 employees to 15 or 25 employees; this reform would extend protections to millions more workers.²⁰ FMLA reform should also eliminate tenure requirements, allowing immediate access to FMLA protections, rather than requiring 12 months of employment and 1,250 hours worked. This reform would help those in temporary, part-time, and seasonal jobs.²¹

The FMLA should also allow for a gradual return to work, allowing mothers to work part-time or on a reduced schedule after maternity leave to ease the transition back to the workforce. Additionally, remote work options should be expanded to enable women to manage caregiving responsibilities without sacrificing productivity. Also, the FMLA should also guarantee intermittent bonding leave, allowing employees to take bonding leave in smaller increments without requiring employer consent.

Conclusion

The FMLA provides critical protections that enable women to maintain employment and access healthcare during and after pregnancy. However, its unpaid nature and eligibility restrictions leave many women without adequate support, particularly those in vulnerable economic positions. To create a truly equitable workplace, reforms are necessary to address these gaps and ensure that maternity leave protections are inclusive, comprehensive, and accessible to all working women.

Legal cases like *Young* and the passage of the PWFA have strengthened the rights of

pregnant employees nationwide, providing them with federally required workplace accommodations. These rulings have inspired a broader conversation about gender equality,

¹⁹ Bipartisan Policy Center, *State Paid Family Leave Laws Across the U.S.*, <https://bipartisanpolicy.org/explainer/state-paidfamily-leave-laws-across-the-u-s/> (January 16, 2024)

²⁰ National Partnership for Women & Families, *Key Facts: The Family and Medical Leave Act (FMLA)*, <https://nationalpartnership.org/report/fmla-key-facts/>, (February, 2023).

²¹ *Id.*

family-friendly policies, and the need for more comprehensive reforms to support pregnant workers and maternity leave should be the next on the list for reform