



Written by [Michael Tennant](#) on April 16, 2024

Biden Bureaucrats to Force Employers to Grant Abortion Leave

The Biden administration announced new regulations Monday that would force all employers, regardless of their religious or moral convictions, to provide “reasonable accommodations” for employees seeking abortions.

The Equal Employment Opportunity Commission’s (EEOC) [408-page rule](#), scheduled to be published Friday, requires employers “to provide reasonable accommodations 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 an undue hardship on the operation of the business.”



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The rule explains that “certain medical conditions” including “having or choosing not to have an abortion ... have a relation to pregnancy or childbirth” and therefore fall under the regulation. Thus, an employer with an employee who wants time off to get an abortion must accede to that request even if it conflicts with his religious beliefs.

The EEOC issued the rule under the Pregnant Workers Fairness Act (PWFA), which President Joe Biden signed into law in December 2022 as part of an omnibus spending bill. The PWFA expanded the Americans with Disabilities Act’s (ADA) definition of “disability” to include “known limitations related to pregnancy, childbirth, or related medical conditions,” which means employers must provide “reasonable accommodations” for employees with these limitations. However, the PWFA did not define “reasonable accommodations” or “related medical conditions,” leaving that to the EEOC.

Many Republicans and pro-life groups supported the PWFA, believing that the blatantly unconstitutional law would merely be used to give pregnant women some relief in the workplace. Even now, they contend that the EEOC rule violates congressional intent.

Yet there were plenty of others who, before the PWFA’s passage, [warned](#) that it would be used to impose Biden’s radical abortion regime on employers. [CatholicVote](#), for example, pointed out that it delegates responsibility for defining its vague terms to the EEOC, which “has interpreted ‘pregnancy-related’ discrimination issues to include protecting workers’ ‘right’ to abortion.” In addition, it “includes no provisions for religious organizations”; in fact, House Education and Labor Committee Democrats unanimously voted down a Republican-sponsored amendment that would have incorporated such provisions into the law. CatholicVote’s director of government affairs, Tom McClusky, cautioned pro-life groups that, under the PWFA, they could “be sued if they don’t provide their employees special leave to get abortions.”



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The PWFA's provenance was also cause for concern. The first version of the PWFA was introduced in 2012 by pro-abortion Congressman Jerrold Nadler (D-N.Y.). The version that passed the Senate was sponsored by Senator Bob Casey (D-Pa.), who once identified as pro-life but has since "become an increasingly reliable vote in support of abortion rights," in [Politico's words](#). The bill was supported by both the American Civil Liberties Union (ACLU) and NARAL Pro-Choice America, and it was going to be implemented by the Biden administration. Those facts in themselves should have given pro-lifers pause.

Instead, believing that they could trample on employers' property rights for a seemingly worthy cause without the Left's getting in on the action for an unworthy one, they [enthusiastically backed the PWFA](#) — a decision they may regret now, when it is too late.

"The Biden administration has gone rogue. These regulations completely disregard legislative intent and attempt to rewrite the law by regulation," Senator Bill Cassidy (R-La.), lead Republican cosponsor of the PWFA, [said](#) after the rule was proposed in August. "The Pregnant Workers Fairness Act is aimed at assisting pregnant mothers who remain in the workforce by choice or necessity as they bring their child to term and recover after childbirth. The decision to disregard the legislative process to inject a political abortion agenda is illegal and deeply concerning."

"This rule is just the latest example of the Biden administration abusing its power to advance abortion. The new rule seeks to punish the speech of pro-life employers and restrict their hiring practices," Alliance Defending Freedom (ADF) senior counsel Julie Marie Blake said in a [statement](#) Monday. "The Biden administration and the EEOC don't have the legal authority to smuggle this illegitimate rule into a law that was created to protect and support women and that had nothing to do with abortion."

That may be the ADF's view of the law — in an October [comment](#) on the proposed EEOC rule, the organization accused the administration of "hijack[ing] the pro-woman, pro-life PWFA" — but it is clearly not the opinion of a significant number of the law's supporters nor that of the administration that issued the rule.

It is also unlikely to be the opinion of the courts, which have traditionally considered abortion to be just another pregnancy-related condition and are generally unfriendly toward employers' claims of religious discrimination by Uncle Sam. ADF's J. Matthew Sharp told the House Education and Labor Committee in 2019 "that courts rule in favor of the federal government and against those attempting to be free of a substantial burden on their religion in over 80 percent of [Religious Freedom Restoration Act] cases."

In a Monday [press release](#), Congresswoman Virginia Foxx (R-N.C.), who was wise enough to vote against the PWFA, called the EEOC rule "a classic example of government bureaucrats royally mucking it up."

"Instead of following congressional intent," she said, "the Biden administration is using the regulatory process to advance radical policy goals. This isn't surprising given the administration's predilection for abusing the Constitution."

Then again, if Congress hadn't abused the Constitution by passing the PWFA, Biden wouldn't have had legislative cover for his own abuse.



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