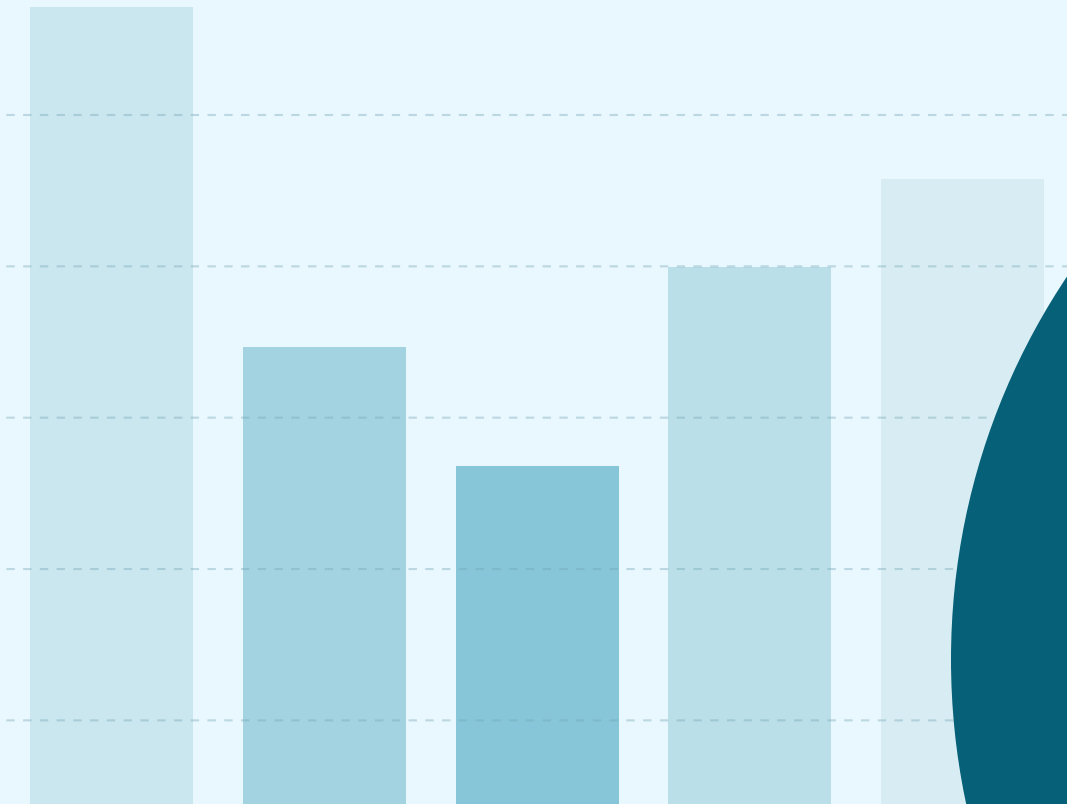


# 2023 Pregnant Workers Fairness Act Employer Readiness Report



Passed on December 29, 2022, the Pregnant Workers Fairness Act (PWFA) is a federal law that requires employers to provide reasonable accommodations to pregnant workers and prevent discrimination against them in the workplace. It will take effect June 27, 2023, and make pregnancy and pregnancy-related conditions a covered disability under the Americans with Disabilities Act (ADA).

**We surveyed 600 HR leaders and decision makers at companies with more than 5,000 employees to learn about their organization's overall readiness for the Pregnant Worker's Fairness Act (PWFA), which goes into effect June 27, 2023.**

We also asked respondents about their current workplace accommodations programs and how they anticipate the new law will affect their company.

In this report, we'll take a close look at the data and our key takeaways. We'll also share more about best practices for workplace accommodations processes, and what HR can do to be prepared for this new law.



# Nearly half of employers don't know all the details of PWFA and are not fully prepared.

It's no secret that HR teams are often overburdened, with multiple, competing priorities, especially at large organizations. Unfortunately, it doesn't come as much of a surprise that the HR leaders we surveyed haven't had the time or resources to learn what they need to know about PWFA. However, it's not too late for organizations to take steps to be prepared.

## PERCENTAGE OF EMPLOYERS SURVEYED

**43%** Not familiar or only somewhat familiar with PWFA



**50%** HR department not prepared for PWFA or just starting to prepare

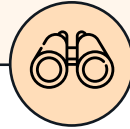


# Six Things HR Can Do Today to Prepare for PWFA



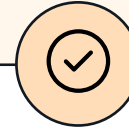
## Examine Policies

Any employer with over 15 employees should take time to examine their policies to determine whether changes will be needed in order to comply with the PWFA.



## Monitor EEOC Regulations

Keep an eye out for new EEOC regulations so you can prepare for them before they take effect.



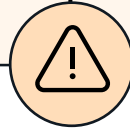
## Update Policies

Closely review and update any workplace accommodation policies to make sure they will be compliant with the PWFA.



## Train HR

Train HR and management personnel involved in evaluating accommodation requests about the requirements of the PWFA, as pregnancy can now be considered a disability.



## Train Managers

Don't forget to train all managers in your organization about the new requirements and protections offered to pregnant workers. Managers who don't fully understand their organization's accommodations policies are often the source of lawsuits.



## Identify Essential Functions

Identify each position's essential functions to determine if they can be temporarily adjusted or amended for a pregnant employee in need of a reasonable accommodation. Consider documenting which functions are essential in job descriptions.

# Most employers anticipate an increase in requests for workplace accommodations by pregnant employees.

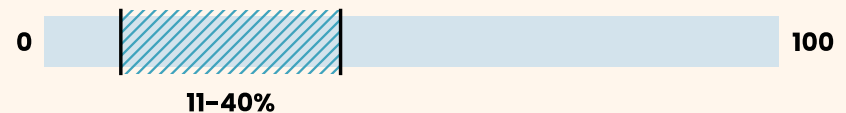
**72% of HR decision-makers we surveyed anticipated an increase in accommodation requests related to pregnancy.**

Nearly half (49%) expect to receive 11-40% additional requests, and another third (33%) anticipate requests rising by 41% or more.

**Half of survey respondents said that each year, 11-40% of their workforce is on maternity leave.**

More than a quarter (26%) report that 21% or more of their employees takes maternity leave. **These numbers show that for most employers, at least 11% of their workforce could be additionally eligible for accommodations under the ADA.**

Each year, 11-40% of respondent's workforce is on maternity leave.



# Accommodating More and Different Types of Requests

The biggest change that the PWFA will likely bring to workplaces is an increase in requests from pregnant workers and new mothers.

Not only will HR teams be dealing with many more requests, but the requests will be for conditions they may not be as familiar with. Pregnancy-related conditions that could qualify a person for an accommodation can include, but are not limited to:

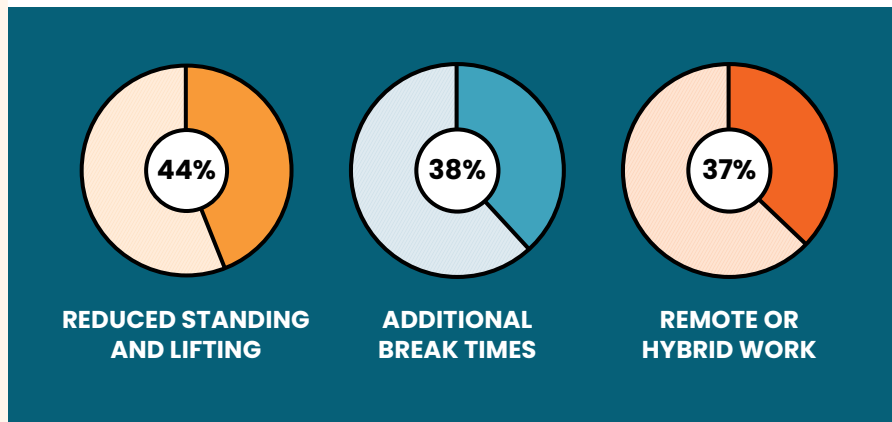
- Morning sickness
- Post-partum depression
- Mastitis
- Swelling in legs or feet
- Gestational diabetes
- Anemia
- Preeclampsia

You want to be sure to have a streamlined, tracked interactive process in place for these new types of accommodations requests to avoid a potential lawsuit. The Equal Employment Opportunity Commission (EEOC) has announced that they will begin accepting and evaluating charges under the PWFA the same day the law takes effect: June 27, 2023. This makes it even more important that your HR department be prepared before the law takes effect.

- ✓ Morning sickness
- ✓ Post-partum depression
- ✓ Mastitis
- ✓ Swelling in legs or feet
- ✓ Gestational diabetes
- ✓ Anemia
- ✓ Preeclampsia

# Most large employers are prepared to accommodate pregnant workers with job modifications and flexible hours, **but far fewer are ready to offer a leave as an accommodation.**

## Percentage of respondents who said they were prepared to offer:



Nearly half of respondents (**44% and 43%**) said they were **prepared to reduce standing** and lifting requirements for pregnant workers, as well as offer flexibility in work hours or start times. A larger percentage of employers were also **willing to offer additional break times (38%) and options for remote or hybrid work (37%).**



However, many were **not prepared to offer intermittent leave (25%)**



**or a leave of absence (only 17%),** even though they could be considered reasonable for some pregnancy-related conditions.



# What Could a Reasonable Accommodation for a Pregnant Worker Look Like?

The House Committee on Education and Labor Report on the PWFA provided several examples of accommodations that would likely be considered reasonable.

Accommodating pregnant workers will go beyond just providing a chair or lessening lifting requirements.

Given the range of accommodations that could be considered reasonable, you want to be sure your HR team has the time for a thorough, supportive interactive process when requests are made. Accommodation management technology can automate and streamline many parts of the interactive process, giving your team more time to spend with the employees making each request. This gives everyone a chance to explore accommodation options that will work for both the employee and your organization.

## A broader list of reasonable accommodations can include:

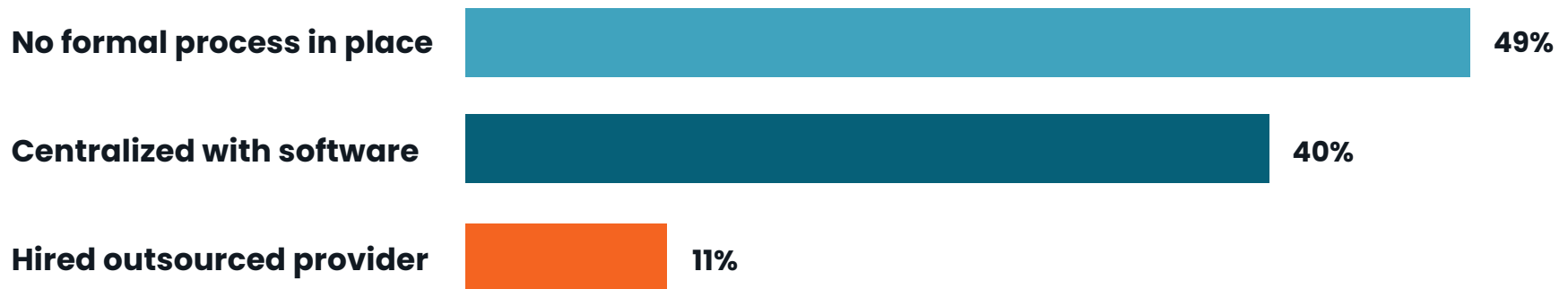
- ✓ Offering opportunities to sit or drink water
- ✓ Providing closer parking spaces
- ✓ Offering flexible work hours
- ✓ Flexible working locations and the option to work from home
- ✓ Ensuring appropriately sized uniforms and safety apparel are available
- ✓ Providing additional break times to use the bathroom, eat, and rest
- ✓ Taking leave or time off to recover from childbirth, postpartum depression, mastitis, and other pregnancy-related conditions
- ✓ Intermittent leave or time off for medical appointments
- ✓ Being excused from strenuous activities
- ✓ Permission to avoid activities that involve exposure to compounds not safe for pregnancy





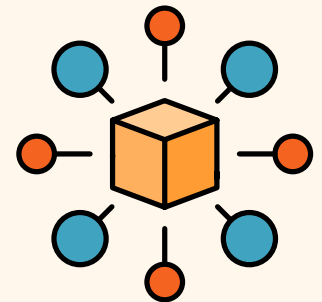
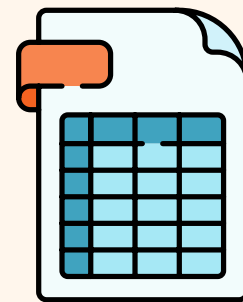
Overall, managing accommodations programs remains a challenge for many large employers, **and half of employers surveyed had only a few formal processes in place – or none at all.**

### How respondents are managing accommodations today



Half of the HR professionals we surveyed either had no formal processes in place, or had just a few processes but relied primarily on spreadsheets, email reminders, and disparate apps.

Of the other half of respondents, nearly all (40%) had centralized their accommodations management with software, while only 11% used an outsourced provider.



# Better Accommodations Management = Better Workplaces

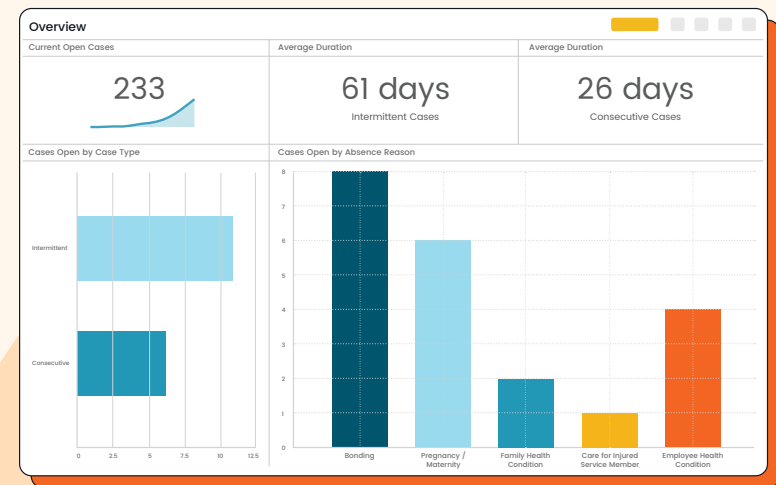
Though it isn't often discussed as key driver of a better employee experience, workplace accommodations – especially how the interactive process is managed – should be.

The goal of your organization's accommodation program should be simple: **ensuring employees with disabilities feel supported and have what they need to be productive. This can quickly lead to reduced turnover, improved employee engagement, and much more.**

Accommodations management software can be a critical tool for delivering a better overall accommodations process and experience. When HR teams use a centralized tool to document their processes, with prompts to ensure every step is completed, processes become more standardized and equitable. With the tools to track and manage each case quickly and easily, HR managers get more time to talk with employees and find the best possible accommodation.

Standardizing and formalizing your accommodations processes also helps you avoid costly litigation. With technology and insourcing, you know that each person on your team that manages accommodations will be following the same processes for every case. Managers can view details for any case at any time and leverage real-time insights about their organization's accommodations programs to make better decisions.

To make sure your team is following new requirements on day one, you should equip your HR teams with tools that are automatically updated – without your team having to do anything on their end.



# Respondents are also worried about how their organizations provide reasonable accommodations to many types of disabilities covered by the ADA.

## Percentage of respondents who are concerned about accommodating workers with:

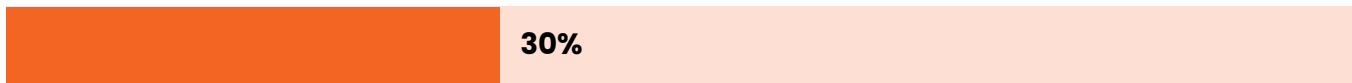
### MENTAL HEALTH CONDITIONS



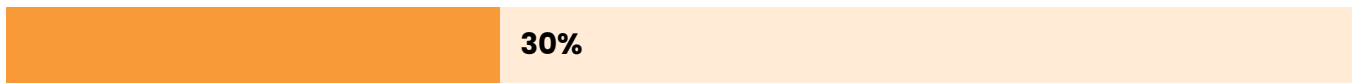
### VISION OR HEARING IMPAIRMENT



### NEURODIVERGENT CONDITIONS



### LONG COVID



Nearly half (49%) of respondents said they were concerned about how well their company could provide accommodations for mental health conditions like depression and anxiety.

HR professionals were also concerned about accommodating workers with vision or hearing impairment (36%), neurodivergent conditions such as ADHD or autism spectrum disorder (30%), and long COVID (30%).

# Covered Disabilities Can Range Widely – and So Can Their Reasonable Accommodations.

When many people think of workplace accommodations, employees with physical disabilities who need equipment-related solutions often come to mind. For example, specialized keyboards for people with mobility issues or specific types of chairs to accommodate back pain.

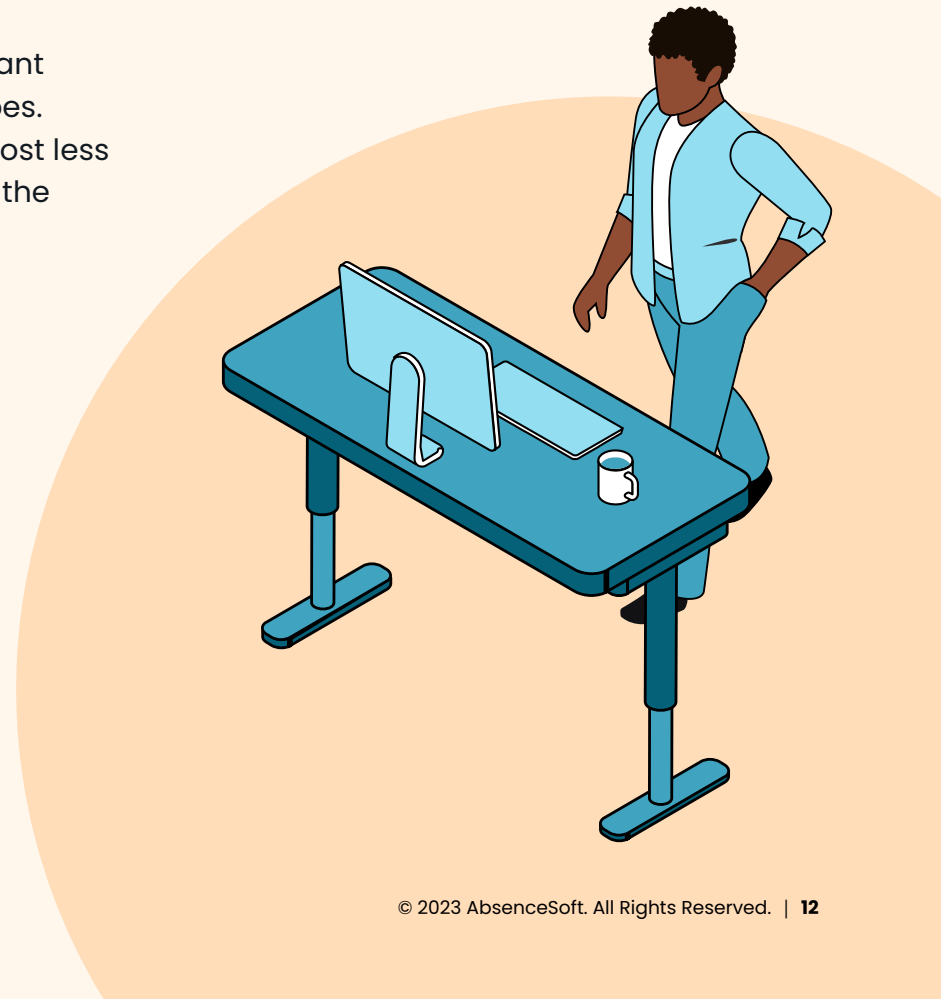
However, a wide range of disabilities that are covered under the ADA are often what we call “hidden” or “invisible.” They can include conditions such as autism, ADHD, arthritis, brain injuries, mental illnesses, diabetes, epilepsy, chronic pain, dyslexia, and more. And soon, the PWFA will cover a wide range of pregnancy-related conditions as well.

Whether it is mental illness, morning sickness, or ADHD, employees with disabilities often feel the need to hide their condition. They might not want to be seen as “problem employee” or seek to avoid stigma or stereotypes. However, many of the accommodations for these types of disabilities cost less than \$500—or often nothing at all— but can make a huge difference to the employee’s experience and their overall productivity.

This is why it is so important to have a robust, streamlined process in place to manage and track workplace accommodations. It’s also a good best practice to have an easy and discreet way for employees to make a request, such as a self-service portal, so that they can be supported to perform their best.

To learn more about why it is important accommodate many types of disabilities, and strategies for finding the right accommodations, visit:

**[absencesoft.com/resource-tag/accommodations](https://absencesoft.com/resource-tag/accommodations)**



## About AbsenceSoft

AbsenceSoft is a leave and accommodation management solutions provider, delivering scalable, easy-to-use, and configurable software to manage FMLA, ADA, disability, and many other forms of leave easily and efficiently.

Founded in 2013, AbsenceSoft serves over 200 customers across major industry verticals, ranging from small businesses to Fortune 5 Companies. Built by leave professionals, for leave professionals, AbsenceSoft now covers over 5 million lives. We ensure that every AbsenceSoft team member our customers speak with is a Certified Leave Management Specialist (CLMS certified).

Our software streamlines and automates leave and accommodations processes, ensuring compliance with federal and state regulations, as well as company-specific policies. AbsenceSoft has a dedicated, internal compliance team, and maintains a relationship with Littler Mendelson through retainer, allowing access to the top leave attorneys in the nation.

**To learn how software can transform your leave and accommodations management, we invite you to schedule a demo of AbsenceSoft at:**

[absencesoft.com](https://absencesoft.com)

