

Talking to Your Boss About Your Bump: Texas

This fact sheet focuses on Texas law. Protections will differ in other states. In addition, you may be protected by federal law through the Americans with Disabilities Act or the Pregnancy Discrimination Act.¹ Visit babygate.abetterbalance.org/texas for more information.

WHEN to break the news:

- There are no real legal deadlines for notifying your employer until late in your pregnancy, when you will need to request leave 30 days in advance of taking off for childbirth, if you are covered by the Family and Medical Leave Act.
- If you need time off for pregnancy-related illness, or you need another workplace change to accommodate your pregnancy, you may have to break the news earlier.
- If you suspect that your boss won't be happy to hear you are pregnant, don't feel pressure to tell before you are ready. However, keep in mind that your colleagues and boss may appreciate being told as soon as you feel comfortable, so that they, and you, can plan ahead.

WHAT to say:

- Before starting the conversation, it's a good idea to do your homework and review your employer's policies about pregnancy and parental leave. You may also want to consult with human resources.
- Reassure your boss that you are committed to your job and that you plan to return to work after the baby arrives. Many bosses wrongly assume that pregnancy means the end of an employee's dedication and reliability. It's important to tackle those assumptions up front.
- Stress that you are willing and able to keep working—even if your pregnancy impacts your work, it will be a short-term situation, like a temporary disability. You don't need a doctor's note to announce your pregnancy, and in fact, sometimes a note can cause trouble if your boss thinks it limits what you can do on the job.
- Highlight that you are a breadwinner (or primary earner) for your family, and your household depends on your paycheck.
- If you have access to parental leave, come armed with a plan to help your boss prepare for your absence and cover your workload while you are gone.



¹ The Equal Employment Opportunity Commission enforces the Pregnancy Discrimination Act (PDA) and Americans with Disabilities Act (ADA), which cover employers nationwide who have 15 or more employees. The PDA makes it illegal for your employer to punish you because of your pregnancy or to treat you differently than other workers because you are pregnant. The ADA protects you from discrimination and entitles you to reasonable accommodations if you have a pregnancy-related disability, such as hypertension, preeclampsia, gestational diabetes, or another pregnancy-related impairment that substantially limits a major life activity.

- Listen carefully and take careful notes after your conversation, especially about anything that sounded strange or wrong to you.
- Unfair treatment based on pregnancy (e.g. firing or penalizing you upon learning you are pregnant) is illegal.
- Depending on your situation and the city or state you work in, you may have a right to workplace changes to accommodate your pregnancy.

Workplace Accommodations

Have a conversation with your medical provider about your job duties to understand if you may need changes at work because of your pregnancy, such as time off for prenatal appointments or nausea, a stool to sit on, the ability to carry a water bottle, a change to your uniform, limiting heavy lifting, frequent bathroom breaks, or anything else. Keep in mind that your needs may change over the course of your pregnancy. If you do want to seek an accommodation, keep reading!

HOW to ask for an accommodation:

FIRST→ Do you work for a municipal or county employer in Texas? In Texas, municipal and county employers must try to accommodate a pregnant employee who has restrictions based on her doctor's advice. In addition, pregnant municipal and county employees with a doctor's note saying they are unable to do their job duties should be transferred to any available temporary work assignments in the same office.²

- If you do not work for a county or municipality in Texas, you may still be entitled to an accommodation under state or federal law—keep reading to learn more!

SECOND→ Do you have a diagnosed medical condition or disability associated with your pregnancy, like gestational diabetes, hypertension, migraines, fatigue, back pain, or swelling in your feet? If so, federal and/or state disability law should protect you.

- Tell your boss that you have a disability or medical condition arising from your pregnancy and that you need a reasonable accommodation on the job. For accommodation ideas, look at The Center for Worklife Law's list of pregnancy-related conditions and possible workplace accommodations:
www.pregnantatwork.org/wp-content/uploads/Workable-Accommodation-Ideas.pdf.
- Specify what kind of accommodation you need, including any job duties that you need modified, and make sure your boss knows you can still perform the bulk of the duties of your job. Refer your boss to the Job Accommodation Network (<http://askjan.org/soar/other/preg.html>) for more information and ideas.
- Come prepared with a plan—what kind of changes do you need and how can you make that work? Talk with coworkers and enlist their help.

² Tex. Loc. Gov't Code §180.004.

- Explain how your requested accommodation will not be too difficult or expensive for the company (e.g. it's time limited, another employee is willing to help you on occasion with the task you can't perform, etc.)
- This should be a two-way conversation—your boss must engage with you. If she asks for additional information, you should provide it. Make sure to get the conversation documented in writing—you may send an e-mail or note summing up what was discussed and keep a copy for your records.

THIRD→ If you *don't* have a disability or medical condition related to your pregnancy, are NOT employed by a Texas municipality and county, and simply need to ensure you can continue working comfortably and maintain a healthy pregnancy:

- Tell your boss you need a reasonable accommodation for your pregnancy so that you can continue to do your job safely.
- Come prepared with a plan—what kind of changes do you need and how can you make that work? Talk with coworkers and enlist their help.
- Explain that the changes you seek are small and will not impose an undue hardship on the company (i.e. not too costly or difficult).
- Keep in mind that if your employer accommodates a large percentage of non-pregnant workers, i.e. workers with disabilities or those with on-the-job injuries, then your employer may be required to do the same for you under the Pregnancy Discrimination Act. Your employer cannot justify its refusal to accommodate you too by claiming that it is more expensive or less convenient to also accommodate pregnant women.
- If you are eligible <<http://www.dol.gov/whd/regs/compliance/whdfs28.pdf>>, you may use time under the Family and Medical Leave Act for prenatal checkups and smaller chunks of time when your pregnancy makes it impossible for you to report to work. Give your employer advance notice (30 days if possible) for time off related to your pregnancy.

FOURTH→ If your boss requires a note from your doctor to confirm your medical need, make sure that the doctor's note is as specific as possible and outlines exactly what you can and cannot do at work. Avoid vague terms like "heavy lifting" or "light duty," which may be interpreted by your boss to mean you can no longer do your job. Be aware that employers often use doctor's notes to say that pregnant women can't do their jobs and to push them out of the workplace, either by forcing them onto leave before they are ready or by firing them outright. Here are guidelines on writing effective work accommodation notes that you can print and share with your prenatal care provider:

<https://www.pregnantatwork.org/wp-content/uploads/texas-work-note-guidelines.pdf>.

**Questions? Call:
A Better Balance at (212) 430-5982
Center for Worklife Law at (415) 703-8276**