

Pregnancy, Accommodation, and the Workplace

Author : Joseph Seiner

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Bradley A. Areheart, [Accommodating Pregnancy](#), 67 *Ala. L. Rev.* 1125 (2016).

In *Accommodating Pregnancy*, Professor Bradley Areheart takes on the ambitious project of evaluating the current law of pregnancy discrimination in the workplace. Professor Areheart reviews the existing proposals to “accommodate” pregnancy under workplace laws, disagreeing with any characterization of pregnancy as a disability. The article suggests alternative ways of providing these same types of accommodations while avoiding the “disability” label. It is also one of the first published works to examine the Supreme Court’s recent decision in [Young v. UPS](#) – a case alleging pregnancy discrimination in the workplace that has generated substantial discussion and debate among legal scholars.

Courts and litigants have struggled for decades with how to formulate the rights of pregnant employees in the workplace. Professor Areheart begins by examining the various protections afforded by the Americans with Disabilities Act (ADA) and the Pregnancy Discrimination Act (PDA). In place of treating pregnant workers as disabled or advancing pregnancy-specific accommodation rights, Professor Areheart suggests a different model. Under this new approach, he identifies alternatives that would not present the same risks he identifies for disabled workers yet would still provide important accommodations to pregnant employees. The approach considers accommodation law from a more “gender-symmetrical” point of view.

Professor Areheart acknowledges the need to make accommodations for pregnancy, but notes the danger to women of identifying pregnancy as a disability. Such a characterization could “revitalize exclusionary and paternalistic attitudes toward pregnant employees.” Professor Areheart does an excellent job of reviewing the relevant scholarship in this area, and of arguing that the mischaracterization of pregnancy carries substantial risks for female workers. Quite simply, labeling pregnancy as a “disability” may provide certain legal protections for women, but it also carries with it many potential risks and drawbacks in the context of our current social structure.

Accommodating Pregnancy advances a new approach to an important and timely topic. The article is rich in detail and provides substantial information for both scholars and historians of gender issues. The unique approach identified by this work will further spark a critical dialogue needed in this area. Pregnancy and family-related issues continue to be an area of workplace law requiring much more in-depth analysis and exploration. And, these issues continue to dominate the political and legal landscapes, receiving widespread publicity across the country. Many of the laws protecting employees in the workplace were adopted at a time when family-related issues were not given as much weight, and when the workforce was more male-dominated. Given the sensitivity and political nature of these issues, as well as the changing times, then, a careful review of the topic is imperative.

Professor Areheart’s impressive article will greatly advance the national conversation about this controversial and high-profile topic. In all, the paper’s substantial examination of existing accommodation proposals, review of the current case law on pregnancy, and proposal for a new approach to accommodating pregnancy in the workplace make this piece a substantial and important contribution to the academic literature.

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