



**Kody Condos**

Associate  
801.799.5901  
Salt Lake City  
KLCondos@hollandhart.com



**Leslie Perkins**

Associate  
801.799.5733  
Salt Lake City  
LMPerkins@hollandhart.com

# A Tale of Two Rulings: This Week's Conflicting Decisions on the Pregnant Workers Fairness Act

**Insight — June 18, 2024**

Today, June 18, 2024, marks the effective date of the Pregnant Workers Fairness Act (PWFA) Final Rule, which is now effective in 48 states. The path to implementing the PWFA has been fraught with lawsuits, culminating in this week's starkly opposing court decisions.

First, U.S. District Judge D. P. Marshall Jr. (Arkansas) dismissed a motion for preliminary injunction filed in April by attorneys general from 18 states against the Equal Employment Opportunity Commission (EEOC) challenging the provisions of the PWFA related to employers being required to provide reasonable accommodations for employees seeking elective abortions. Judge Marshall held the attorneys general lacked standing to sue and that the states could not show a likelihood of irreparable harm, an element required for a preliminary injunction to be successful. Because of the lack of standing and failure to meet a required element of a preliminary injunction, the Court denied the preliminary injunction as moot and ordered dismissal of the Complaint without prejudice.

Interestingly, not even a week later, U.S. District Judge Davis Joseph (Louisiana) granted a preliminary injunction filed by the attorneys general of Louisiana and Mississippi and four religious organizations led by the U.S. Conference of Catholic Bishops, blocking the EEOC's PWFA Final Rule. Judge Joseph held that the plaintiffs in fact had standing to challenge the Rule and that the EEOC exceeded its powers by expropriating the authority of congress and encroaching upon the sovereignty of the states. The injunction now pauses the implementation of the Rule with respect to "purely elective abortions" against the named plaintiffs, which includes any covered entity with respect to all employees whose primary duty station is located in Louisiana and Mississippi.

While these conflicting rulings may provide some avenue for appeal, currently, the Rule goes into effect today. Unless something changes, employers with employees in states other than Louisiana or Mississippi must comply with the Rule in its entirety. The Rule is not effective in Louisiana or Mississippi with respect to purely elective abortions but applies in all other respects. See our blog post [here](#) for more information on the PWFA.

---

*This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.*