



Women's Economic Security Act

Annual Report

December 2023

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Executive summary

The Minnesota Department of Labor and Industry (DLI) is responsible for the enforcement of several provisions of the Women’s Economic Security Act (WESA), passed by the Legislature in 2014 and revised in 2021 and 2023. WESA is a comprehensive employee protection law designed to protect and promote opportunities for women in the workplace.

The provisions of the law enforced by DLI are:

1. Wage Disclosure Protection (Minnesota Statutes (M.S. § 181.172);
2. Nursing Mothers, Lactating Employees, and Pregnancy Accommodations (M.S. § 181.939);
3. Pregnancy and Parenting Leave (M.S. § 181.941); and
4. Sick Leave Benefits; Care of Relatives (M.S. § 181.9413).

DLI enforces employee rights under WESA through investigations of employee complaints, on-site visits to employer establishments, and employee/employer outreach about WESA rights and responsibilities.

This report provides DLI investigative data and outcomes related to its enforcement of WESA for the most recent year (September 2022 through August 2023) and since the law’s adoption in spring 2014.

DLI annual WESA investigative summary

September 2022 through August 2023

Complaint type	Complaints filed	Complaints closed ¹	Violations found
Wage Disclosure Protection	8	5	1
Pregnancy Accommodations	3	3	3
Pregnancy and Parenting Leave	4	4	3
Nursing Mothers	7	8	3
Sick Leave Benefits; Care of Relatives	2	2	0
Total	24	22	10

DLI cumulative WESA investigative summary

July 2014 through August 2023

Complaint type	Complaints filed	Complaints closed	Violations found
Wage Disclosure Protection	32	27	10
Pregnancy Accommodations	28	29	11

¹ Complaints closed may exceed complaints filed due to closing complaints filed prior to the start of the reporting period. Some complaint investigations are ongoing.

Pregnancy and Parenting Leave	38	37	5
Nursing Mothers	39	40	22
Sick Leave Benefits; Care of Relatives	18	16	0
Total	155	149	48

Intake numbers

The Labor Standards Division’s case management system can track intakes to the department by issue. The data provided here shows the number of inquiries DLI received on each of the WESA topics from Sept. 1, 2022, through Aug. 31, 2023. Some of these intakes were questions about the law, which DLI staff members were able to answer on the spot. Others were allegations of violations that resulted in the investigations listed in the tables above.

Sept. 1, 2022, through Aug. 31, 2023

Topic of inquiry	Number of intakes
Wage Disclosure Protection	26
Pregnancy Accommodations	63
Pregnancy and Parenting Leave	192
Nursing Mothers	135
Sick Leave Benefits; Care of Relatives	54
Total WESA Intakes	470

Outreach and referrals

From Sept. 1, 2022, through Aug. 31, 2023, DLI participated in 48 events that included outreach about WESA (4,571 total participants at those events). Three of these events were specialized WESA webinars including DLI, the U.S. Department of Labor’s Wage and Hour Division and the Minnesota Department of Health that brought together health professionals, county health offices and related nonprofit organizations.

DLI continues to maintain referral relationships with other state agencies affected by the enactment of WESA. DLI has established a formal referral process for complainants with issues related to pregnancy accommodation or possible sex/pregnancy discrimination with the Minnesota Department of Human Rights.

Introduction

The Minnesota Women’s Economic Security Act (WESA) became law on Mother’s Day 2014.² It is a combination of 14 provisions designed to address gender equity, create new training and entrepreneurship opportunities for women, and prohibit discrimination on the basis of familial status.

WESA includes the following workplace protections that are enforced by the Department of Labor and Industry (DLI):

1. Wage Disclosure Protection (M.S. § 181.172);
2. Nursing Mothers, Lactating Employees, and Pregnancy Accommodations (M.S. § 181.939);
3. Pregnancy and Parenting Leave (M.S. § 181.941); and
4. Sick Leave Benefits; Care for Relatives (M.S. § 181.9413).

DLI is authorized to enforce these WESA laws under the commissioner’s authority of M.S. § 177.27. DLI may issue an order to an employer requiring it to comply with WESA and to cease and desist from violating the law. DLI can order an employer to pay back wages and liquidated damages to an employee who has suffered a wage loss due to a violation of a WESA workplace protection. DLI can also assess a penalty of up to \$10,000 for each violation for willful or repeated activities. In addition, M.S. § 181.944 gives workers the right to sue their employer in district court for violations of WESA. As of July 1, 2019, the Minnesota Attorney General’s office also has enforcement authority over all of M.S. Ch. 181, which includes these WESA laws.

In addition, effective July 1, 2023, workplace protections for nursing and lactating employees, as well as expectant and new parents, were expanded. Changes include:

- Requiring all nursing and lactating employees receive break times to express milk regardless of their child’s age.
- Requiring workplace lactation spaces be clean, private and secure.
- Ensuring all nursing and lactating employees have a right to break times to express milk regardless of whether providing the breaks unduly disrupts the operations of the employer.
- Ensuring employees can choose when to express milk based on their needs, whether that means expressing milk during an existing paid break, during an existing unpaid break, such as a meal break, or during some other time.
- Requiring employers notify all employees of the rights of pregnant and lactating employees when hired, when an employee makes an inquiry about or requests parental leave and in an employee handbook if one is provided. The notice must be provided in English and the primary language of the employee. DLI makes the required notice language available for employers in English and the five most common languages spoken in Minnesota.

²Minnesota Session Laws 2014; Chapter 239 (revisor.mn.gov/laws/2014/0/Session+Law/Chapter/239/).

- Expanding the statutory list of example reasonable pregnancy accommodations to include a temporary leave of absence, a modification to work schedule or job assignment and more frequent or longer breaks.
- Strengthening the anti-retaliation provisions that protect the rights of nursing, lactating and pregnant employees.
- Ensuring all employees, regardless of their employer’s size or amount of time for which they have worked for their employer, have a right to pregnancy accommodations and up to 12 weeks of unpaid pregnancy and parental leave.

WESA enforcement summary

From July 2014 through August 2023, DLI completed 149 investigations of alleged violations of the WESA provisions within its legal authority. DLI has the following observations and recommendations.

First, employers have often been unaware of their responsibilities related to WESA. However, upon learning of the responsibilities through DLI’s investigative and outreach efforts, many employers came into compliance willingly and expeditiously. This highlights the importance of continuing DLI’s outreach and education efforts to ensure employees and employers are aware of their rights and obligations under these laws.

Second, the number of nursing mothers’ accommodation complaints remains consistent, and the number of violations found is comparatively high, underscoring the importance of DLI and its grantee partners continuing to educate employees and employers of their rights and duties under M.S. § 181.939.

Third, DLI reviewed and investigated many intakes and complaints that could have been resolved by open communication between employers and employees. DLI anticipates the new requirements of M.S. § 181.939, subd. 3 to provide nursing mothers’ rights and pregnancy accommodation rights in employees’ primary languages at the time of hire and when an employee makes an inquiry about or requests parental leave will encourage communication between employers and employees and reduce intakes and complaints.

WESA laws enforced by DLI

I. Wage Disclosure Protection (M.S. § 181.172)

The Wage Disclosure Protection law prohibits employers from requiring employees not to disclose their own wages or conditions of employment. It also prohibits employers from requiring employees to sign a waiver that purports to deny their right to disclose their wages. Employers cannot take adverse employment action against employees who disclose their own wages or discuss another employee’s wages that were voluntarily disclosed by that employee.

Employers that have an employee handbook are required to include notice to their employees of their rights and remedies under the wage disclosure law.

DLI has provided the following sample notice language on its website to assist employers.

Notice to employees – Under the Minnesota Wage Disclosure Protection law, you have the right to tell any person the amount of your own wages. Your employer cannot retaliate against you for disclosing your own wages. Your remedies under the Wage Disclosure Protection law are to bring a civil action against your employer and/or file a complaint with the Minnesota Department of Labor and Industry at 651-284-5070 or 800-342-5354.³

From Sept. 1, 2022, through Aug. 31, 2023, DLI received eight wage disclosure complaints, with one resulting in DLI finding violations of the law.

2023 DLI case example: DLI received a complaint from an employee who stated their employer, a fast-food restaurant, told employees they could never discuss their wages in the workplace. DLI reached out to the employer, who committed to training and monitoring all managers to avoid violating the wage disclosure law. DLI followed up with the complainant to ensure the employer had come into compliance with the law and the employee confirmed it had.

In addition to investigating complaints about this issue, Labor Standards Investigators also identify when employers' written policies are in violation of this law. When that occurs, DLI educates the employer and provide DLI's sample written notice to employees about wage disclosure for inclusion in the employer's employee handbook.

II. Nursing Mothers, Lactating Employees, and Pregnancy Accommodations (M.S. § 181.939)

The Nursing Mothers, Lactating Employees, and Pregnancy Accommodations law covers two areas of workplace protections.

First, the nursing mothers and lactating employees' provisions require employers of any size to provide both a reasonable amount of time and a suitable space for an employee to express milk.

An employer must provide reasonable paid break times each day to any employee who needs to express milk. Changes to M.S. § 181.939 effective July 1, 2023, eliminate certain exceptions to the law, including eliminating the one-year time limit on an employee's right to express milk and the exception allowing an employer to not provide breaks to express milk if doing so would unduly disrupt the employer's operations.

An employer must make a reasonable effort to provide a clean, private and secure space to express milk that:

1. is in close proximity to the work area;
2. is a room other than a bathroom or toilet stall;
3. is shielded from view;

³See dli.mn.gov/business/employment-practices/womens-economic-security-act-faqs.

4. is free from intrusion from coworkers and the public; and
5. includes access to an electrical outlet.

Importantly, employers cannot reduce an employee's compensation for time taken to express milk. However, the law does not require employers to start paying for current unpaid break time used to express milk, such as a meal break.

From Sept. 1, 2022, through Aug. 31, 2023, DLI received seven complaints related to the nursing mothers and lactating employees' provisions of the law, with three resulting in DLI finding violations of the law.

2023 DLI case examples: Upon returning to work after being on parental leave, an employee of a manufacturer called DLI to report she was only allowed to pump during her regularly scheduled breaks of 10 minutes in the morning and afternoon, and during her lunch break. She needed 20 minutes to pump instead of 10 minutes, and often had to skip one of her 10-minute breaks. DLI contacted the employer regarding the requirements of M.S. § 181.939 and received confirmation that the employer would comply with the law. DLI also confirmed with the employee that her matter was satisfactorily resolved.

In another investigation, DLI was contacted by an employee of a childcare center who stated she was not receiving regular break times to express milk, her employer was questioning her need to continue to pump because her child now ate some solid foods and the room for pumping was not secure. DLI reached out to the employer and was able to confirm they would comply with the law moving forward and update their employee handbook to reflect the rights set forth in M.S. § 181.939. The employer sent an email confirming compliance with the law, as well as photographs of the lock on the lactation room door.

Second, the Nursing Mothers, Lactating Employees, and Pregnancy Accommodations law requires employers to provide reasonable accommodations to employees with health conditions related to pregnancy or childbirth.

Eligibility for pregnancy accommodation protection under WESA changed on July 1, 2023, to allow protections under this law to any pregnant employee who works for an employer with one or more employees.

Discrimination because of pregnancy is prohibited under the Minnesota Human Rights Act.

Eligible pregnant employees are entitled to three types of accommodations without having to provide documentation from a licensed health care provider or certified doula or otherwise prove the accommodation is necessary. An employer may not deny any of these automatic accommodations, nor claim they create an undue hardship:

1. more frequent or longer restroom breaks or food and water breaks;
2. seating arrangements; and
3. a limit on lifting more than 20 pounds.

Employees may, with the advice of a licensed health care provider or certified doula, request the employer provide other reasonable accommodations, such as transfer to a less strenuous position, temporary leave of absence, or modification in work schedule or job assignments. The employer and employee must engage in an interactive process with respect to an employee's request. An employer may deny requested pregnancy accommodations if it can show it would cause the employer an undue hardship. The employer cannot require an employee to take leave or accept pregnancy accommodations the employee does not want.

From Sept. 1, 2022, through Aug. 31, 2023, DLI received three complaints related to the pregnancy accommodations provisions of the law, with all three resulting in DLI finding violations of the law.

2023 DLI case examples: A nursing home facility denied a pregnant employee's request to limit lifting more than 20 pounds. When the employee persisted with the request, the employer took the employee off the work schedule. DLI contacted the employer and explained M.S. §181.939, subd. 2, which requires employers to provide a pregnant employee with limits on lifting over 20 pounds, regardless of whether the employee provides a doctor's note or whether the accommodation is an undue hardship on the employer. The employer then approved the employee's accommodation request and confirmed with DLI that the employee would not be required to lift more than 20 pounds for the remainder of the employee's pregnancy.

In another investigation, a health care employee reported she submitted a physician's note restricting her from working 12-hour shifts and lifting more than 20 pounds. The employer denied her reasonable accommodations, telling her she either could or could not work, and if she could not work, she would be put on leave or fired. The employer put the employee on involuntary leave because the employer refused to accommodate her physician's restrictions. The employee had to use paid time off to cover the costs of her health insurance. DLI contacted the employer and explained M.S. §181.939, which requires certain reasonable accommodations as a matter of law and requires the employee and employer to engage in an interactive process with respect to an employee's request for other reasonable accommodations. The employer then worked with the employee to approve the employee's accommodation request and the employee confirmed with DLI they reached a suitable arrangement.

As required under M.S. § 181.9435, DLI must conduct an expedited investigation of Nursing Mothers, Lactating Employees, and Pregnancy Accommodations law complaints. DLI is required to contact the employer within two business days and investigate the complaint within 10 days of receiving the complaint.

Also, effective July 1, 2023, employers must notify all employees of the rights of pregnant and lactating employees in the employees' primary languages at the time of hire and when an employee makes an inquiry about or requests parental leave. DLI has provided sample notice language in English, Chinese, Spanish, Hmong, Somali and Vietnamese at dli.mn.gov/newparents.

Further, an employer may not retaliate against an employee for asserting rights or remedies under the Nursing Mothers, Lactating Employees, and Pregnancy Accommodations law.

III. Pregnancy and Parenting Leave (M.S. § 181.941)

The Pregnancy and Parenting Leave law requires that an employer provide at least 12 weeks of unpaid pregnancy and parenting leave within 12 months of the birth or adoption of a child.

Eligibility for pregnancy and parenting leave under WESA changed on July 1, 2023, to allow protections under this law to any employee who works for an employer with one or more employees, regardless of how long the employee has worked for the employer.

From Sept. 1, 2022, through Aug. 31, 2023, DLI received four complaints related to the Pregnancy and Parenting Leave law, with three resulting in DLI finding violations of the law.

2023 DLI case example: An employee of an insurance company reported she was denied pregnancy leave in August 2023, in violation of the parental leave law (M.S. § 181.941) because she had only been employed for seven months at the time she requested leave. The employer did not know about the changes to M.S. § 181.941 requiring an employer to provide parental leave regardless of how long the employee has worked for the employer. DLI reached out to the employer and the employer granted the employee 12 weeks of unpaid leave.

Minnesota’s paid family and medical leave law, which provides paid time off during or following a pregnancy, goes into effect Jan. 1, 2026. DLI will have enforcement authority over the employment protections in the law once it is in effect.

IV. Sick Leave Benefits; Care of Relatives (M.S. § 181.9413; repealed as of January 1, 2024)

The Sick Leave Benefits; Care of Relatives (or sick and safe leave) law requires that if an employer provides paid sick leave benefits to its employees, it must allow employees to use the paid sick leave benefits to care for a sick family member. The law also allows employees to use paid sick leave to receive assistance or provide assistance to a family member related to sexual assault, domestic abuse or stalking. An employer may limit the use of sick and safe leave benefits for family members to no more than 160 hours in any 12-month period. However, the employer cannot limit the use of sick and safe leave benefits for absences due to an illness of or injury to the employee’s minor child.

“Family member” under this law means a child, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent. “Child” includes a biological child, stepchild, foster child or adopted child.

From Sept. 1, 2022, through Aug. 31, 2023, DLI received two complaints alleging violations of the sick and safe leave law. Neither of these complaints resulted in DLI finding violations of the law.

M.S. § 181.9413 is repealed by the earned sick and safe time requirements of M.S. § 181.9445, et seq, when Minnesota’s earned sick and safe time law goes into effect Jan. 1, 2024. The earned sick and safe time law requires employers to provide paid leave to employees in Minnesota that can be used for certain reasons, including when an employee is sick, to care for a sick family member or to seek assistance if an employee or their family member has experienced domestic abuse. DLI will have enforcement authority over the earned sick and safe time law as well as outreach and education responsibilities.

DLI outreach

The Labor Standards Division at DLI responds to more than 20,000 inquiries annually from workers, employers and others about various wage-and-hour concerns, including WESA protections. Labor Standards also engages in proactive outreach to educate employees and employers on their rights and responsibilities under these laws.

Labor Standards provides written information about WESA to employers and employees. DLI created a website about workplace rights and responsibilities for new parent workers and employers at dli.mn.gov/newparents. The landing page includes FAQs, information about 2023 changes to workplace protections for expectant and new parents, videos and employee-oriented brochures in English, Hmong, Somali and Spanish. Labor Standards continues to publish a monthly email bulletin to help inform employers about the state’s minimum wage, overtime, tips, wage deductions, child labor and WESA requirements, among other topics.

DLI continues to participate in outreach events to educate employers, associations, community-based organizations and worker advocates about WESA and how to contact DLI for information and assistance. From Aug. 31, 2022, through Sept. 1, 2023, DLI participated in 48 outreach events where it provided WESA information or training.

Finally, in addition to its ongoing efforts to raise awareness about WESA, DLI received \$134,000 in dedicated funding support from the state legislature for fiscal year 2023 to focus on WESA outreach and compliance activities. Support coincided with legislative changes that broadened employer requirements for pregnant and new parent employees.

DLI has implemented a WESA Outreach Plan to focus resources and raise awareness about the nursing mother and pregnancy accommodation protections. This plan included the following activities from September 2022 to August 2023:

- There were 48 events that included outreach about WESA (4,571 total participants at those events). Three of these events were specialized WESA webinars including DLI, the U.S. Department of Labor’s Wage and Hour Division and the Minnesota Department of Health that brought together health professionals, county health offices and related nonprofit organizations.
- DLI updated and continued to publish and distribute multilingual (English, Hmong, Somali and Spanish) brochures for pregnant and new parents about their rights under WESA. Nearly 27,000 brochures were distributed to 130 health care organization locations, including 19,490 English, 4,234 Spanish, 2,393 Somali and 848 Hmong, for distribution to pregnant workers and new parents. Organizations included hospitals’ maternity areas, midwifery offices, OB/GYN clinics, WIC offices, and county health departments located

throughout the state including, for example, Wadena, Northfield, Windom, Baxter, St. Cloud, Milaca, Austin and throughout the metro area.

- DLI published the pregnant workers and new parents' webpage on May 3, 2021. From Aug. 31, 2022, to Sept. 1, 2023, DLI recorded 49,454 visits to the webpage.
- Informational videos were created in English, Hmong, Somali and Spanish about rights and responsibilities under WESA. The video was viewed approximately 1,000 times between August 2022 to September 2023.
- DLI issued a request for proposals for WESA engagement and education grants in July 2023. DLI awarded grants to five organizations for projects that will run from November 2023 through June 2024.
- DLI issued Wage and Hour Bulletin newsletters covering WESA in June 2023 (recent statutory changes) and July 2023 (grant announcement) to about 40,000 subscribers.
- DLI has been running online ads about WESA on Google, Meta and Twitter since 2021. From Aug. 31, 2022, to Sept. 1, 2023:
 - 17,976 people clicked on the Meta ads; and
 - 14,693 people clicked on the Google ads.

The department intends to continue social media and online messaging each month, outreach grants and brochure distribution as funding permits.

Information and frequently asked questions about WESA can be found on DLI's website at dli.mn.gov/business/employment-practices/womens-economic-security-act-faqs and at dli.mn.gov/newparents.

DLI has developed a series of workplace fact sheets for employers and employees that are available online.

- Wage disclosure – dli.mn.gov/sites/default/files/pdf/wage_disclosure.pdf
- Pregnancy and parenting leave, pregnancy accommodations and nursing mothers – dli.mn.gov/sites/default/files/pdf/WESA_poster.pdf
- Pregnancy and parenting leave – dli.mn.gov/sites/default/files/pdf/parental_leave.pdf
- Earned sick and safe time as of Jan. 1, 2024 – dli.mn.gov/sites/default/files/pdf/sick_leave.pdf

DLI referrals

Minnesota Department of Employment and Economic Development

DLI refers questions related to workforce development to the Minnesota Department of Employment and Economic Development (DEED). Specifically, DEED administers a WESA grant program to assist women in obtaining employment in high-wage and high-demand occupations.

DLI also refers questions related to unemployment insurance to DEED. Under WESA, employees may be eligible for unemployment benefits if they quit their job because of abuse, sexual assault or stalking.

Minnesota Department of Human Rights

DLI refers questions related to equal pay certificates to the Minnesota Department of Human Rights (MDHR). Businesses contracting with Minnesota state agencies must have an Equal Pay Certificate issued by MDHR if the contract exceeds \$500,000 and the business has 40 or more full-time employees.

DLI also refers questions related to the Familial Status Protected Class law to MDHR. Under WESA, “familial status” was added to the list of protected classes against whom labor organizations, employers and employment agencies cannot discriminate. Familial status is defined in the Minnesota Human Rights Act as a: (1) parent, guardian or designee of a parent or guardian who lives with at least one minor; or (2) a person who is pregnant or is in the process of securing legal custody of a minor.⁴

In addition to taking pregnancy accommodation complaints, DLI refers possible cases of pregnancy discrimination directly to MDHR.

Minnesota Department of Health

DLI refers employers to MDH’s Breastfeeding Friendly Workplaces Program, a voluntary recognition program for workplaces that have demonstrated their commitment to supporting breastfeeding mothers by creating a workplace lactation support program (see health.state.mn.us/people/breastfeeding/recognition).

Conclusion

From July 2014 through August 2023, DLI completed 149 investigations of alleged violations of the WESA provisions within its legal authority. Through continued outreach and engagement about WESA to employers and workers, DLI is committed to raising awareness and helping employers remain or come into compliance with these important workplace protections.

⁴Minnesota Statutes § 363A.03, subd. 18 (revisor.mn.gov/statutes/?id=363A.03).

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