

The Legal Effects of Pregnancy as Illness or Disability

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The pregnant woman is a unique individual. During the whole period of pregnancy, which is deemed to begin at the moment of conception and to end with the delivery of the child, she is a distinctive individual possessing certain characteristics peculiar only to her. Consequently, the law places her in a unique position, exposing her to certain legal implications not made applicable to other individuals. Thus, in a prominent case, it has been observed that although a pregnant woman is in a normal physiological condition, such condition may nevertheless become pathological because of certain effects of the pregnancy that may endanger her life. It has therefore been observed that one of the ways by which the law could extend protection to a pregnant woman is to treat her pregnancy as that akin to an illness or disability.

In thus creating the premise that she is under an illness or disability, the law prescribes that a heightened standard of diligence be exercised when dealing with a pregnant woman, recognizing the weakness resulting from her condition. The legal reaction therefore becomes rooted in such recognition of weakness. The author establishes such legal reaction by viewing the pregnant woman in four distinct situations: as a laborer, an insured, a tort victim, and a witness.

Ultimately, the Author posits that the law, in directing the protection of the pregnant woman, provides for a protective-preventive legal fiction stemming from the necessity to safeguard a delicate condition.