

Connecticut Strengthens Protections for Pregnant Employees

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Connecticut's "An Act Concerning Pregnant Women in the Workplace" strengthens considerably the workplace protections for pregnant employees and applies to employers who employ at least three employees. The Act takes effect on October 1, 2017.

Who is Covered

The Act defines "pregnancy" broadly. The definition includes "pregnancy, childbirth or a related condition, including, but not limited to, lactation."

Discriminatory Practices

Under the Act, discriminatory practices include:

- Limiting, segregating, or classifying an employee in a way that would deprive her of employment opportunities due to her pregnancy;
- Discriminating against an employee or applicant on the basis of her pregnancy in the terms or conditions of her employment;
- Failing or refusing to make a reasonable accommodation for an employee or applicant due to her pregnancy (unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer);
- Denying employment opportunities to an employee or applicant because the employee requested a reasonable accommodation due to her pregnancy;
- Forcing an employee or applicant affected by pregnancy to accept a reasonable accommodation if that individual (i) does not have a known limitation related to her pregnancy, or (ii) does not require a reasonable accommodation to perform the essential duties related to her employment;
- Requiring an employee to take a leave of absence if a reasonable accommodation can be provided in lieu of such leave; and
- Retaliating against an employee in the terms, conditions, or privileges of her employment based upon such employee's request for a reasonable accommodation.

Under the Connecticut Fair Employment Practices Act, discriminatory practices already include:

- Terminating a woman's employment because of her pregnancy;
- Refusing to grant an employee a reasonable leave of absence for disability resulting from her pregnancy;
- Denying an employee who is disabled as a result of pregnancy any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by the employer; and
- Failing or refusing to reinstate the employee to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other service credits upon her signifying her intent to return (unless, in the case of a private employer, the employer's circumstances have so changed as to make it impossible or unreasonable to do so).

Reasonable Accommodation

The Act provides a list of what constitutes a reasonable accommodation but cautions that *this list is not exhaustive*:

- Being permitted to sit while working;
- More frequent or longer breaks;
- Periodic rest;
- Assistance with manual labor;

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- Job restructuring;
- Light duty assignments;
- Modified work schedules;
- Temporary transfers to less strenuous or hazardous work;
- Time off to recover from childbirth or break time; and
- Appropriate facilities for expressing breast milk.

Undue Hardship

It is the employer's burden to demonstrate that providing a reasonable accommodation to an employee covered by the Act would impose an undue hardship.

Under the Act, an undue hardship is defined as “an action requiring significant difficulty or expense.” The following factors should be considered:

- The nature and cost of the accommodation;
- The overall financial resources of the employer;
- The overall size of the business of the employer with respect to the number of employees and the number, type, and location of its facilities; and
- The effect on expenses and resources or the impact otherwise of such accommodation upon the operation of the employer.

Employees Given Notice of Rights

The Act imposes an obligation on employers to provide employees with written notice of their right to be “free from discrimination in relation to pregnancy, childbirth and related conditions, including the right to a reasonable accommodation to the known limitations related to pregnancy” pursuant to Conn. Gen. Stat. §46 a-60(b)(7).

The notice must be provided to:

- New employees at the commencement of employment;
- Existing employees within 120 days after the Act goes into effect on October 1, 2017; and
- Any employee who notifies the employer of her pregnancy within 10 days of such notification.

Employers may comply with the notice requirement by displaying a poster in a conspicuous place that is accessible to employees. The notice must be in both English and Spanish.

Next Steps

Prior to the Act's October 1, 2017, effective date, employers should review their policies, practices, handbooks, and notices to ensure that they are compliant with the Act. Employers also may consider training Human Resources professionals, supervisors, and managers, especially on hiring, discrimination, accommodation practices (including engaging in an interactive dialogue with covered employees), and the requirements regarding employees who are breastfeeding.

If you have any questions or concerns about these developments or your specific business needs, please contact the Jackson Lewis attorney with whom you regularly work.

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