

September 2017

October 1, 2017: Connecticut Employers Subject to New Law Protecting Pregnant Employees

Connecticut has joined a growing trend of states and municipalities expanding the protections afforded to pregnant employees and applicants. Connecticut's new law, effective October 1, 2017, entitled [An Act Concerning Pregnant Women in the Workplace](#), Public Act No. 17-118, amends the state's antidiscrimination law, the Connecticut Fair Employment Practices Act (CFEPA), to include specific accommodations that must be made with regard to pregnancy, childbirth, and related conditions as well as other protections. CFEPA applies to employers with three or more employees. Prior to the new law, and similar to its federal counterpart, the Pregnancy Discrimination Act (PDA), CFEPA prohibits discrimination on the basis of pregnancy, among granting other rights. The amended CFEPA, however, is significantly broader and more precise.

PROHIBITED DISCRIMINATION

As amended, the law lists a number of additional employment practices deemed discriminatory with regard to pregnant employees and applicants. The statute specifies that it is now unlawful for an employer to do the following:

- limit, segregate, or classify in a way that would deprive the employee of employment opportunities due to pregnancy
- discriminate against an employee or applicant on the basis of pregnancy in the terms or conditions of employment
- fail or refuse to make a reasonable accommodation for an employee or applicant due to pregnancy, unless the employer can demonstrate that such accommodation would impose an undue hardship
- deny employment opportunities to an employee or applicant if such denial is due to the employee's request for a reasonable accommodation due to pregnancy
- force a pregnant employee or applicant to accept a reasonable accommodation if the employee does not have a known limitation related to pregnancy or does not require a reasonable accommodation
- require an employee to take a leave of absence if a reasonable accommodation can be provided in lieu of such leave
- retaliate against an employee in the terms, conditions, or privileges of employment based upon such employee's request for a reasonable accommodation

REASONABLE ACCOMMODATIONS RELATED TO PREGNANCY

More significantly, the law modifies the definition of what is considered a “reasonable accommodation” with regard to pregnancy and provides a nonexclusive list of examples, specifically including, but not limited to, the following:

- permission to sit while working
- more frequent or longer breaks
- periodic rest
- assistance with manual labor
- job restructuring
- light duty assignments
- modified work schedules
- temporary transfers to less strenuous or hazardous work
- time off to recover from childbirth
- break time and appropriate facilities for expressing breast milk

The statute provides that covered employers are required to grant a reasonable accommodation unless doing so would cause an undue hardship, meaning it would require significant difficulty or expense when considered in light of factors such as 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 of such accommodation upon the operation of the employer.

Employees may also be eligible for additional rights under the state and/or federal Family and Medical Leave Act, the Americans with Disabilities Act, state paid sick leave laws, and other local, state, and federal laws

NOTICE REQUIREMENT

The amended statute also requires covered employers to provide employees with written notice of their rights under the law by either (1) posting a notice in a conspicuous place or (2) providing written notice to new employees upon hire, current employees within 120 days after the effective date of the law, and any employee who notifies the employer of a pregnancy within 10 days of such notification. While employers are not required to use it, the Connecticut Department of Labor has posted a [notice](#).

EMPLOYERS MAY WISH TO CONSIDER THE FOLLOWING ACTIONS

1. Review employee handbooks, policies, and human resource practices to ensure that the obligations under this new law are satisfied, including the notice requirement.
2. Train human resources staff and managers/supervisors regarding the new legal requirements under CFEPA as well as their interaction with other state and federal laws.
3. Seek competent legal counsel before making decisions related to granting or denying reasonable accommodations or taking adverse action against a pregnant employee or applicant.

For more information or if you have questions about how the issues raised in this alert affect your policies, practices, or other compliance efforts, please contact one of the following lawyers in the

firm's Labor, Employment, Benefits + Immigration Group:

[Stephen W. Aronson](#) | [Bruce B. Barth](#) | [Ian T. Clarke-Fisher](#) | [Britt-Marie K. Cole Johnson](#)

[Peter A. Dagostine](#) | [Natale V. Di Natale](#) | [Rachel V. Kushel](#) | [J. Gregory Lahr](#)

[Susan M. Masters](#) | [Virginia E. McGarrity](#) | [Matthew T. Miklave](#) | [Alisha N. Sullivan](#)

[Jean E. Tomasco](#) | [Abby M. Warren](#)

For insights on legal issues affecting various industries, please visit our [Thought Leadership](#) page and subscribe to any of our newsletters or blogs.

Boston | Hartford | New York | Providence | Stamford | Albany | Los Angeles | Miami | New London | [rc.com](#)
Robinson & Cole LLP



© 2017 Robinson & Cole LLP. All rights reserved. No part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without prior written permission. This document should not be considered legal advice and does not create an attorney-client relationship between Robinson+Cole and you. Consult your attorney before acting on anything contained herein. The views expressed herein are those of the authors and not necessarily those of Robinson+Cole or any other individual attorney of Robinson+Cole. The contents of this communication may contain attorney advertising under the laws of various states. Prior results do not guarantee a similar outcome.