

Connecticut and Massachusetts Expand Protections for Pregnant Employees

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By Susan Gross Sholinsky, Jeffrey M. Landes, Nancy L. Gunzenhauser, and Marc-Joseph Gansah

Two laws mandating pregnancy accommodations for employees were recently passed. On July 6, 2017, Connecticut Governor Dannel Malloy signed into law "[An Act Concerning Pregnant Women in the Workplace](#)" ("Connecticut Act"). The Connecticut Act expands protections for pregnant employees and will take effect on October 1, 2017. On July 27, 2017, Massachusetts Governor Charlie Baker signed into law the [Massachusetts Pregnant Workers Fairness Act](#) ("Massachusetts Act") (the Connecticut Act and the Massachusetts Act are sometimes collectively referred to as the "Acts"). The Massachusetts Act will take effect on April 1, 2018.

Definitions

Both of the Acts require that employers provide reasonable accommodations to employees due to pregnancy or pregnancy-related conditions, unless such accommodations would impose an undue hardship on an employer. Under both Acts, mothers must be accommodated if they desire to breastfeed in the workplace once they return to work after giving birth. The Acts have similar definitions for many of the terms used and contain similar guidance, as follows:

- "Pregnancy" includes not only pregnancy and childbirth but also related conditions, including lactation or nursing.
- Potential reasonable accommodations, include, but are not limited to:
 - being permitted to sit while working,
 - more frequent or longer breaks,
 - periodic rest,
 - assistance with manual labor,
 - job restructuring,
 - light duty assignment,
 - modified work schedules,

- temporary transfers to less strenuous or hazardous work,
 - time off to recover from childbirth or break time, and
 - appropriate, non-bathroom space for expressing breast milk.
- “Undue hardship” is defined under both Acts as an action requiring 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;
 - the number, type, and location of its facilities; and
 - the effect on expenses and resources or the impact otherwise of the accommodation upon the operation of the employer.

Discriminatory Practices

The Acts make it unlawful for an employer to:

- fail or refuse to make a reasonable accommodation for an employee or job applicant due to her pregnancy, unless the employer can demonstrate that the accommodation would impose an undue hardship;
- deny employment opportunities to an employee or job applicant if the denial is because of the request for a reasonable accommodation due to her pregnancy;
- force an employee or job applicant affected by pregnancy to accept a reasonable accommodation if she (i) does not have known limitation related to her pregnancy or (ii) does not require a reasonable accommodation to perform the essential duties related to her employment;
- require an employee to take a leave of absence if a reasonable accommodation can be provided in lieu of the leave; or
- retaliate against an employee in the terms, conditions, or privileges of her employment based upon the employee’s request for a reasonable accommodation.

In addition to the above, the Connecticut Act makes it unlawful for an employer to:

- limit, segregate, or classify the pregnant employee in a way that would deprive her of employment opportunities due to her pregnancy; or
- discriminate against an employee or job applicant on the basis of her pregnancy in the terms or conditions of her employment.

Notice

The Connecticut Act requires Connecticut persons or employers with at least three employees to provide all employees (and not just female employees) with a written notice of their rights 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. Employers should provide the notice to:

- new employees at the commencement of employment;
- existing employees within 120 days after October 1, 2017; and
- any employee who informs the employer of her pregnancy (within 10 days of receiving that information).

Employers may satisfy the Connecticut Act's notice requirement by posting a copy of the notice in a conspicuous place in the workplace.

The Massachusetts Act requires most Massachusetts employers with at least six employees to provide all employees (and not just female employees) with a written notice of their rights 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. Employers should provide the notice in a handbook or by other means to:

- new employees at the commencement of employment;
- existing employees on or before January 1, 2018; and
- any employee who informs the employer of her pregnancy (within 10 days of receiving that information).

What Connecticut and Massachusetts Employers Should Do Now

- Review and revise, as necessary, policies for pregnant employees and regarding reasonable accommodations to ensure that you comply with the Connecticut Act or the Massachusetts Act, as applicable, once the law becomes effective.
- Train human resource professionals and managers on the requirements of the Connecticut Act or the Massachusetts Act, as applicable.
- Prepare the written notice to inform employees of their rights under the Connecticut Act or the Massachusetts Act, as applicable.

- Provide written notices to employees as required under the Connecticut Act or the Massachusetts Act, as applicable.

For more information about this Advisory, please contact:

Susan Gross Sholinsky
New York
212-351-4789
sgross@ebglaw.com

Jeffrey M. Landes
New York
212-351-4601
jlandes@ebglaw.com

Nancy L. Gunzenhauser
New York
212-351-3758
ngunzenhauser@ebglaw.com

Marc-Joseph Gansah
New York
212-351-4618
mgansah@ebglaw.com

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