

## Publications

### *Labor and Employment Alert: Connecticut Requires Reasonable Accommodations for Pregnancy*

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Effective October 1, 2017, Connecticut employers will be required to provide reasonable accommodations to pregnant employees and job applicants. The new "Act Concerning Pregnant Women in the Workplace" generally requires an accommodation unless providing one would cause an undue hardship.

The law expands the definition of "pregnancy" to include any condition related to pregnancy and childbirth, including lactation. This is broader than both prior Connecticut law and the federal Pregnancy Discrimination Act. Additionally, the law defines a "reasonable accommodation" to include being permitted 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, or break time and appropriate facilities for expressing breast milk. When evaluating whether providing a pregnancy-related accommodation would cause an undue hardship, employers (and ultimately the courts or Connecticut's Commission on Human Rights and Opportunities) are to evaluate whether the action requires significant difficulty or expense in light of its nature and cost; the employer's overall financial resources and size; and the effect on expenses and resources on the employer's operations.

Connecticut law already prohibited discrimination on the basis of pregnancy. Under existing law, an employer is prohibited from terminating a woman because of her pregnancy, refusing to grant her a reasonable leave of absence for a disability related to her pregnancy, or failing to reinstate her to her original or an equivalent position upon her return to work. The act now also makes it an unlawful discriminatory practice to:

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

- fail or refuse to make a reasonable accommodation for an employee or applicant due to her pregnancy, unless the accommodation imposes an undue hardship;
- deny employment opportunities to an employee or applicant due to the employee's request for a reasonable accommodation due to her pregnancy;
- force an employee or applicant to accept a reasonable accommodation if she does not have a known limitation related to her pregnancy or does not need an accommodation to perform her essential job duties;
- require an employee to take a leave of absence if a reasonable accommodation can be provided in lieu of such leave; or
- retaliate against an employee in the terms, conditions, or privileges of her employment because she requested a reasonable accommodation.

An employer must provide written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related conditions as well as the right to a reasonable accommodation. This notice must be provided to new employees when their employment begins; to existing employees by February 2018; and to any employee who notifies her employer of her pregnancy within 10 days after the notification. An employer may provide notice by conspicuously displaying a poster in both English and Spanish. Additionally, Connecticut's Commission on Human Rights and Opportunities will develop courses of instruction and conduct public education efforts to inform employers, employees, employment agencies, and persons seeking employment about their rights and responsibilities under the new law.

Employers in Connecticut must now account for differing definitions of pregnancy, reasonable accommodation, and undue hardship under Connecticut law, the Pregnancy Discrimination Act, and the Americans with Disabilities Act. Employers should review their employment policies and practices to ensure they comport with the new law's requirements. Contact your Vorys lawyer if you have questions about pregnancy leave or accommodation issues.