

Connecticut Employers Have New Notification Requirement Beginning January 29

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By Margaret Bartiromo and Karen Jeffers

The Connecticut Fair Employment Practices Act (CT FEPA) was amended during the past legislative session to enhance the protections available to pregnant women in the workplace. Among the new provisions of the law (which applies to employers of three or more employees as well as the state and political subdivisions) is the requirement that the employee receive written notice of the right to be free from pregnancy-related discrimination. Subject employers must provide this notice to employees: (1) upon their commencement of employment; and (2) within 10 days after an employee notifies the employer about her pregnancy. The revised law, including these notice requirements, became effective October 1, 2017.

The new law also requires employers to notify existing employees of their rights under the revised law within 120 days after its effective date, which is **January 29, 2018**. The notification requirements may be satisfied by displaying a poster in English and Spanish in a conspicuous area at the place of business. **Displaying these posters also satisfies the notice requirement for new employees and for employees who notify the employer of their pregnancy.**

Some Protections under Prior Law Preserved

The revised CT FEPA retains some of the protections available to pregnant women under prior law, including a prohibition on: terminating a woman's employment because of her pregnancy; refusing to grant a reasonable leave of absence for a disability resulting from pregnancy; denying an employee 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 under the employer's plans; and failing to reinstate an employee to her original job or an equivalent position (unless, in the case of a private employer, circumstances have so changed as to make it impossible or unreasonable to do so).

Key Provisions of the Revised Pregnancy Discrimination Law

The revised law adds three defined terms to the CT FEPA:

- "Pregnancy," which means not only pregnancy but also childbirth or a related condition, such as lactation;
- "Reasonable accommodation," which is defined by examples, such as periodic rest, temporary transfers to less strenuous work, time off to recover from childbirth, and break time for expressing breast milk; and

pullcom.com  @pullmancomley

BRIDGEPORT
203.330.2000

HARTFORD
860.424.4300

SPRINGFIELD
413.314.6160

WAKEFIELD
401-360-1533

WATERBURY
203.573.9700

WESTPORT
203.254.5000

WHITE PLAINS
914.705.5355

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- “Undue hardship,” meaning an action requiring significant difficulty or expense when considered in light of such factors as the nature and cost of the accommodation and the overall financial resources of the employer.

The law also clarifies an employer’s obligations with respect to employees and applicants for employment. For example, prior law prohibited employers from refusing to make a reasonable effort to transfer a pregnant employee to a suitable temporary position if the employer or employee reasonably believed that continued employment in the position may cause injury to the employee or the fetus. The revised law provides that employers may not refuse to make **any kind of reasonable accommodation** (which is now defined to include temporary transfers to less strenuous or hazardous work) to a woman because of her pregnancy, absent undue hardship. The revised CT FEPA also deletes the requirement that an employer inform an employee that she must give written notice in order to be eligible for a transfer to a temporary position.

In addition, the new law provides that employers may not require an employee or applicant who is affected by pregnancy to:

- Accept a reasonable accommodation if the individual does not have a known limitation related to her pregnancy or does not require a reasonable accommodation to perform the essential duties related to her employment; or
- Take a leave of absence if a reasonable accommodation can be provided in lieu of such leave.

Prior law did not address these issues.

Finally, the new law explicitly provides that an employer may not:

- Limit, segregate or classify an 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 of conditions of employment;
- Deny employment opportunities to an employee or applicant if the denial is due to the employee’s request for a reasonable accommodation due to her pregnancy; or
- Retaliate against an employee in the terms, conditions or privileges of her employment based upon the employee’s request for a reasonable accommodation.

For further information about the rights of employees and applicants affected by pregnancy, please contact Karen A. Jeffers (kjeffers@pullcom.com) or Margaret A. Bartiromo (mbartiromo@pullcom.com).

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