

# March is Women's History Month: A Look at 3 Laws Protecting the Rights of Women in the Workplace

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## Working Together

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By Margaret Bartiromo

According to the U.S. Department of Labor, nearly half of U.S. workers are women. Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in all aspects of employment, was enacted over 50 years ago, but women still face challenges in the workplace. As March is Women's History Month, now is a good time to review some key laws that affect female workers:

### *1. Pregnancy and Breastfeeding Laws*

The U.S. Census Bureau reports that 61.8% of women (aged 16-50) who had given birth within the past 12 months were in the U.S. labor force in 2014. Connecticut recently enhanced the employment protections provided to pregnant women and nursing mothers under the state's Fair Employment Practices Act (CGS §46a-60). For example, the law now provides that employers of three or more employees may not refuse to make reasonable accommodation to a woman because of pregnancy, childbirth or a related condition or because she is breastfeeding, absent undue hardship. "Reasonable accommodation" is broadly defined 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 transfer to less strenuous work; and time off to recover from childbirth. In addition, employers are prohibited from requiring an employee or applicant affected by pregnancy to accept a reasonable accommodation if the individual does not have a known limitation related to pregnancy or does not require a reasonable accommodation to perform the essential duties related to employment. Subject employers must provide notices to employees (in English and Spanish) regarding their rights under the new law. (See our prior blog on the new notice requirements.)

The new law supplements existing state law which: (1) allows an employee to express breast milk or breastfeed on site at her workplace during her meal or break period; and (2) requires employers to make reasonable efforts to provide a room or other location in close proximity to the work area, other than a toilet stall, where an employee can express her milk in private (CGS §31-40w).

Employers should also be mindful that they may not request information from an employee or applicant relating to a woman's child-bearing age or plans; pregnancy; function of the individual's reproductive system; use of birth control; or family responsibilities, unless directly related to a bona fide occupational qualification.

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**pullcom.com**  @pullmancomley

**BRIDGEPORT**  
203.330.2000

**HARTFORD**  
860.424.4300

**SPRINGFIELD**  
413.314.6160

**WAKEFIELD**  
401-360-1533

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203.573.9700

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203.254.5000

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914.705.5355

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Exceptions apply in the case of workplaces that expose employees to hazardous substances (CGS §46a-60 (b)(9)).

### *2. Sexual Harassment*

While not strictly a women's issue, sexual harassment continues to be a problem in the workplace. A 2016 report of a Special Task Force created by the Equal Employment Opportunity Commission (EEOC) notes that 45% of the total number of harassment charges that the EEOC received in 2015 alleged harassment on the basis of sex.

Employers are responsible for harassment by supervisors when the offending conduct culminates in a tangible employment action (*i.e.*, significant change in employment status, such as hiring, firing, promotion and demotion). If the harassment did not lead to a tangible employment action, the employer is liable unless it proves that: (1) it exercised reasonable care to prevent and promptly correct any harassment; and (2) the employee unreasonably failed to complain to management or to avoid harm otherwise.

Employers of three or more employees in Connecticut must post a notice concerning the illegality of sexual harassment and the remedies available to victims of sexual harassment. Such notice must be posted where both employees and applicants for employment can see the notice. In addition, employers of 50 or more employees in Connecticut must provide two hours of training and education to all supervisory employees. New supervisory employees must receive the training within six months of their assumption of a supervisory position (Regs. Conn. State Agencies §46a-54-204).

### *3. Equal Pay*

The U.S. Bureau of Labor Statistics reports that in 2016 women who were full-time wage and salary workers had median usual weekly earnings that were 82% of those of their male counterparts and that since 2004, the women's-to-men's earnings ratio has remained in the 80% to 83% range. Both the federal Equal Pay Act and Connecticut law (CGS §31-75) prohibit paying workers differently based on their sex. Connecticut has put other protections in place to make wage practices more transparent. For example, employers are prohibited from limiting their employees' ability to share information about their earnings. Specifically, employees may not be restricted from: (1) disclosing or discussing the amount of their own wages or other employees' voluntarily disclosed wages; or (2) asking about other employees' wages. Employers may not require employees to sign a waiver that denies their right to such sharing, nor may they discharge, discipline, discriminate or retaliate against, or otherwise penalize employees for such sharing (CGS §31-40z). The Connecticut General Assembly considered a bill last year that would have prohibited employers from asking applicants about their salary history (see our prior blog on this topic). The bill did not pass but is likely to be considered again during the current legislative session.

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**Tags:** Pregnancy Discrimination, Reasonable Accommodation, Sexual Harassment, U.S. Department of Labor