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# Rhode Island adds comprehensive workplace protections for pregnant and nursing women

**By: Andrew Prescott, Jessica Jewell and Judah Rome**

In the wake of the United States Supreme Court's *Young v. UPS* decision—where the Court analyzed the Pregnancy Discrimination Act but failed to provide clear guidance[1]—many employers wondered about their obligations to accommodate pregnant employees. The Rhode Island General Assembly has now, like a number of other state legislatures, passed legislation mandating workplace accommodation of pregnant and nursing women. Notably, the Bill, which Governor Gina Raimondo signed into law at the end of June (and which became effective upon her signing), draws heavily from the existing city ordinances in Providence and Central Falls. (Employers in these cities should note that the new law has stricter—and some new—components.)

The new law expands the Fair Employment Practices Act by making it illegal to refuse to reasonably accommodate an employee's condition related to pregnancy, childbirth or a related medical condition. Required "reasonable accommodations" include, but are not limited to, allowing for more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, temporary transfer to a less strenuous or hazardous position, job restructuring and light duty. Similar to state and federal disability discrimination law, if an employer can prove that providing an accommodation to a pregnant or nursing woman would cause the employer to suffer an undue hardship, such as significant financial harm, the employer need not provide that accommodation.

The new law also expands on the Nursing Working Mothers Act by requiring break time for nursing mothers to express breast milk, whereas before, providing a break was optional. The new law also reincorporates the existing requirement that employers provide a private non-bathroom space for expressing breast milk. Additionally, an employer may not require a pregnant or nursing employee to take leave if it is otherwise possible to accommodate the woman. Finally, the new law has posting and notice requirements that require employers to provide written notice of an employee's right to be free from pregnancy-related discrimination and the right to reasonable accommodations for conditions related to pregnancy, childbirth and nursing.

Employers will certainly struggle with challenges inherent in applying a new reasonable accommodation obligation. Because an employer's reasonable accommodation of other classes of

[1] Our earlier alert regarding *Young v. UPS* is available by clicking here.

employees (e.g., injured or disabled employees) creates a rebuttable presumption that accommodating pregnant employees in the same way would not create an undue hardship, employers must approach each new accommodation as a potentially binding precedent. The law does not specifically address whether the reasonable accommodation obligation requires excusing the pregnant employee—when transfer to another position is infeasible or unduly burdensome—from performing essential job functions such as lifting, physical restraints, climbing or other activities that may be impossible or risky for her. Case law regarding reasonable accommodations under the Americans with Disabilities Act will be instructive, but because pregnancy is not an ADA disability and the new law differs from the ADA, there will be much to learn.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:


- Andrew Prescott at **aprescott@nixonpeabody.com** or (401) 454-1016
- Jessica Jewell at **jsjewell@nixonpeabody.com** or (401) 454-1046