



# New York State's New Pregnancy Accommodation Law Takes Effect

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As of January 19, 2016, the Protect Women from Pregnancy Discrimination bill is in effect in New York. The bill, which was signed by New York State Governor Andrew Cuomo in October 2015, requires employers to provide reasonable accommodations for pregnant employees.

The Protect Women from Pregnancy Discrimination bill amends the New York State Human Rights Law ("NYSHRL") by clarifying the definition of a "pregnancy-related condition." The amended NYSHRL defines "pregnancy-related condition" as,

a disability, under which employers are required to provide reasonable accommodation. Specifically, the bill defines a "pregnancy-related condition" as a medical condition related to pregnancy or childbirth that inhibits the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; provided, however, that ... the term shall be limited to conditions which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.

If an employer fails to provide reasonable accommodation to employees with a "pregnancy-related condition," the employer may be liable for "unlawful discriminatory practice" in violation of state law. Practically speaking, this means that an employer generally cannot require a pregnant employee to take a leave of absence if she is unable to perform her job functions without accommodation. Further, as addressed by the Supreme Court last year, this also means that an employer cannot provide light-duty assignments for employees following work-related injuries while not offering the same accommodations to a pregnant employee.

The scope of this new provision of the law is not, however, limitless. In other words, under the NYSHRL, employers are not required to provide any and all accommodations that pregnant employees request during the course of their pregnancies. First, employers are permitted to require pregnant employees to provide medical information concerning their pregnancy-related conditions. Second, an accommodation must be reasonable and cannot be unduly burdensome to the employer. What is considered a "reasonable accommodation" (or for that matter, an undue burden) depends on the specific facts and circumstances. To that end, the NYSHRL lists several factors to be considered, including the nature and cost of the accommodation and the employer's size and financial resources.

In addition to the NYSHRL, those employers located within New York City's five boroughs must also abide by New York City's pregnancy accommodation law. In 2013, former Mayor Michael Bloomberg signed a bill to amend the New York City Human Rights Law ("NYCHRL"). The NYCHRL arguably has broader effect and application than the NYSHRL, as the NYCHRL requires employers to provide reasonable accommodation to an employee for "pregnancy, childbirth or related medical condition" as opposed to NYSHRL's singular "pregnancy-related condition." Under the NYCHRL, employers may deny providing accommodations if the employee cannot satisfy the essential requisites of the job even with the reasonable accommodation. Furthermore, like the NYSHRL, employers may deny providing accommodation to an employee with a "pregnancy, childbirth or related medical condition" if the employer can show that the accommodation would be unduly burdensome.

These state and local requirements must be satisfied in addition to any accommodations required under the federal laws such as the Americans with Disabilities Act ("ADA"), Fair Labor Standards Act ("FLSA"), and Pregnancy Discrimination Act ("PDA"). Employers should promptly review and if necessary, update their workplace policies to ensure compliance with various federal, state and local pregnancy accommodation laws. Employers should also consider training and educating their managers about the legal obligations of providing reasonable accommodations to pregnant employees.

*If your institution has questions or concerns regarding employment or education-related issues, please contact James G. Ryan at [jryan@cullenanddykman.com](mailto:jryan@cullenanddykman.com) or at 516-357-3750.*

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