Reasonable Accommodations for Pregnant Workers: State and Local Laws

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Seventeen states, the District of Columbia and four cities have passed laws requiring some employers to provide reasonable accommodations to pregnant workers.

Alaska

Public employers are required to transfer a pregnant employee to a position that is less strenuous or hazardous if the employee requests the transfer, is qualified for the position and the transfer is recommended by a licensed health care provider.[1] The employer must provide the employee with at least the same compensation as the employee's original position or the transfer position, whichever is less.

California

Employers must grant an employee's request for reasonable accommodations for a condition related to pregnancy, childbirth or related medical conditions, upon the advice of her physician. The law also prohibits employers from retaliating against employees for exercising their rights under the law. Employers must provide reasonable advance notice of these rights to employees.[2] The law applies to employers with five or more employees and protects workers regardless of tenure and number of hours worked.[3]

Central Falls, Rhode Island

Employers must reasonably accommodate an employee's condition related to pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may neither deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation nor force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must provide written notice of these rights to new and existing employees.[4] The law protects employees regardless of tenure and number of hours worked and is silent as to the number of employees an employer must have in order to be covered.

Connecticut

Employers must make a reasonable effort to transfer a pregnant employee to a temporary

position if the employee's current position could cause injury to her or the health of her pregnancy. Employers must inform employees by any reasonable means that the employee must give written notice of her pregnancy in order to be eligible for such a transfer. The law applies to employers with three or more employees and protects workers regardless of tenure and number of hours worked.[5]

Delaware

Employers must make reasonable accommodations for an employee's known limitations related to pregnancy, childbirth or related conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must provide written notice of these rights to new and existing employees and to any employee who notifies the employer of her pregnancy. Employers must also conspicuously post notice of these rights in their place of business in an area accessible to employees. The law applies to employers with four or more employees and protects workers regardless of tenure and number of hours worked.[6]

District of Columbia

Employers must make reasonable accommodations for an employee's known limitations related to pregnancy, childbirth and related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must provide written notice of these rights to new and existing employees and to any employee who notifies the employer of her pregnancy. Employers must also conspicuously post notice of these rights in their place of business in an area accessible to employees. The law protects workers regardless of tenure or number of hours worked and is silent as to the number of employees an employer must have in order to be covered.[7]

Hawaii

Employers are required to make reasonable accommodations for a pregnant employee with a disability related to pregnancy, childbirth or related medical conditions. The law also prohibits employers from retaliating against employees for exercising their rights under the law. The law applies to employers with one or more employees and protects workers regardless of tenure and number of hours worked.[8]

Illinois

Employers must make reasonable accommodations for an employee's medical or common condition related to pregnancy or childbirth if the employee requests such an accommodation, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must post notice of these rights in a conspicuous location on the employer's premises where notices to employees are customarily posted and include it in any employee handbook.[9] The law applies to employers of any size and protects workers regardless of tenure and number of hours worked.

Louisiana

Employers who have a policy, practice or collective bargaining agreement requiring or authorizing the transfer of temporarily disabled employees to a less strenuous or hazardous position must also grant a temporary transfer to a pregnant employee, upon her request and with the advice of her physician, if she can be reasonably accommodated. The law applies to employers who with 25 or more employees and protects workers regardless of tenure and number of hours worked.[10]

Maryland

Employers must explore all possible means of reasonably accommodating a disability caused or contributed to by pregnancy if an employee requests a reasonable accommodation, unless doing so would impose an undue hardship on the employer. The law also requires an employer to transfer an employee to a less strenuous or less hazardous position for a specified period of time in some circumstances, if the employee requests the transfer. Employers must post information on these rights in a conspicuous location and include it in any employee handbook.[11] The law applies to employers with 15 or more employees during the year, and protects workers regardless of tenure and number of hours worked.

Minnesota

Employers must provide reasonable accommodations to an employee for health conditions related to pregnancy or childbirth if an employee requests such an accommodation with the advice of her health care provider, unless doing so would impose an undue hardship on the employer. Employers may not require a pregnant employee to take leave or accept an accommodation. The Minnesota Division of Labor Standards and Apprenticeship shall, upon request, make available a poster concerning these rights for posting on an employer's premises.[12] The law applies to employers with 21 or more employees at one site or more and protects workers regardless of tenure and number of hours worked.

Nebraska

Employers must provide reasonable accommodations for the known limitations of an individual who is pregnant, has given birth or has related medical conditions, unless doing so would impose an undue hardship on the employer.[13] Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation or require a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must post notice of these rights in a conspicuous location.[14] The law applies to employers with 15 or more employees in the state and protects employees regardless of tenure and number of hours worked.[15]

New Jersey

Employers must provide reasonable accommodations to women affected by pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, including recovery from childbirth, if the employee requests the accommodation based on the advice of her physician, unless doing so would impose an undue hardship on the employer.[16] Employers must post information about these rights in places easily visible to all employees and applicants.[17] The law applies to all employers of any size in the state and protects employees regardless of tenure and number of hours worked.[18]

New York City, New York

Employers must reasonably accommodate the needs of an employee for her pregnancy, childbirth or related medical conditions, unless doing so would impose an undue hardship on the employer.[19] Employers must provide written notice to employees about these rights.[20] The law applies to employers with four or more employees and protects employees regardless of tenure and number of hours worked.[21]

New York

Employers must provide reasonable accommodations to the known pregnancy-related conditions of an employee, unless doing so would impose an undue hardship on the employer.[22] Employers must post information about these rights in a conspicuous, easily accessible and well-lit location that is customarily frequented by employees.[23] The law applies to employers with four or more employees in the state and protects employees regardless of tenure and number of hours worked.[24]

North Dakota

Employers must provide reasonable accommodations to pregnant employees, unless doing so would unduly disrupt or interfere with the employer's normal operations, threaten the employee's health or safety, contradict a business necessity or impose an undue hardship on the employer.[25] The law is silent as to employers' requirements to give notice or post information about these rights. The law applies to employers of any size in the state and protects employees regardless of tenure and number of hours worked.[26]

Philadelphia, Pennsylvania

Employers must provide reasonable accommodations to employees for needs related to pregnancy, childbirth or related medical conditions, provided the employee requests such accommodation, unless doing so would impose an undue hardship on the employer. Employers must provide written notice to employees of these rights.[27] The law applies to any employer in Philadelphia who employs at least one non-relative and protects workers regardless of tenure and number of hours worked.[28]

Providence, Rhode Island

Employers must provide reasonable accommodations to employees, upon request, for conditions related to pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided.[29] Employers must provide written notice of these rights to new and existing employees and post notice in a conspicuous place on their premises.[30] The law applies to any employer with seven or more employees within the city and protects employees regardless of tenure and number of hours worked.[31]

Rhode Island

Employers must provide reasonable accommodations to employees, upon request, for conditions related to pregnancy, childbirth or related medical conditions, including the need to express breast milk, unless doing so would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation or force a pregnant employee to take leave if another reasonable accommodation can be provided. Employers must provide written notice of these rights to new and existing employees and conspicuously post notice of these rights in their place of business in an area accessible to employees.[32] The law applies to any employer with four or more employees within the state and protects employees regardless of tenure and number of hours worked.[33]

Texas

A county or municipal employer is required to make a reasonable effort to accommodate an employee who is determined by a physician to be partially physically restricted by a pregnancy.[34] The law applies to any county or municipal employer and protects employees regardless of tenure and number of hours worked.

Utah

Employers must provide reasonable accommodations to employees, upon request, for pregnancy, childbirth, breastfeeding or related conditions, unless doing so would impose an

undue hardship on the employer's operations. Employers may not force an employee to terminate employment if another reasonable accommodation can be provided, or deny employment opportunities because of the need to provide a reasonable accommodation. Employers must provide notice of these rights by including them in an employee handbook or conspicuously posting notice in their place of business.[35] The law applies to public employers as well as private employers with 15 or more employees within the state and protects employees regardless of tenure and number of hours worked.[36]

West Virginia

Employers must make reasonable accommodations for employees who have limitations documented by a health care provider that stem from pregnancy, childbirth or related medical conditions unless the accommodation would impose an undue hardship on the employer. Employers may not deny employment opportunities to a pregnant employee because of the need to provide a reasonable accommodation, require a pregnant employee to accept an accommodation, or force a pregnant employee to take leave if another reasonable accommodation can be provided.[37] The law applies to any employer with 12 or more employees within the state and protects employees regardless of tenure and number of hours worked.[38]

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1 Alaska Stat. § 39.20.520 (2013).

2 Cal. Code Regs. tit.2, § 11049 (2013).

3 Cal. Gov't Code §§ 12945, 12926 (West 2012).

4 Central Falls, R.I. Code § 12-5 (2014).

5 Conn. Gen. Stat. §§ 46a-60(a)(7), 46a-51 (2011).

6 Del. Code tit. 19, §§ 710, 711, 716 (2014).

7 Protecting Pregnant Workers Fairness Act of 2014, D.C. Act. 20-458 (2014).

8 Haw. Code R. § 12-46-107 (1990).

9 775 Ill. Comp. Stat. 5/2-101, 102 (2014).

10 La. Rev. Stat. §§ 23:342, 23-341 (1997).

11 Md. Code, State Gov't §§ 20–609, 20-601 (2013).

12 Minn. Stat. §§ 181.940, 181.9414, 181.9436 (2014).

13 Neb. Rev. Stat. §§ 48-1107.01(2) , 48-1107.02(1)(e) (2015).

14 Neb. Rev. Stat. § 48-1121 (2015).

15 Neb. Rev. Stat. § 48-1102 (2015).

16 N.J. Stat. § 10:5-12(s) (2013).

17 N.J. Admin. Code § 13:8-1.2 (2006).

18 N.J. Stat. Ann. § 10:5-5 (2010).

19 N.Y. City Admin. Code § 8-107(22)(a) (2015).

20 N.Y. City Admin. Code § 8-107(22)(b) (2015).

21 N.Y. City Admin. Code § 8-102(5) (2015).

22 2015 N.Y. Sess. Laws Ch. 369 (to be codified at N.Y. Exec. Law §§ 292, 296).

23 N.Y. Comp. Codes R. & Regs. tit. 9, §§ 466.1(a), (b) (2015).

24 N.Y. Exec. Law §§ 292(5), (6) (2015).

25 N.D. Cent. Code § 14-02.4-03(2) (2015).

26 N.D. Cent. Code §§ 14-02.4-02(8), (7) (2015).

27 Philadelphia, Pa., Code § 9-1128 (2014).

28 Philadelphia, Pa., Code § 9-1102 (2014).

29 Providence, R.I., Code §§ 16-57(c)(1)(g), (b)(1)(c), (c)(1)(f) (2015).

30 Providence, R.I., Code § 16-84 (2015).

31 Providence, R.I., Code §§ 16-54(h), (g) (2015).

32 R.I. Gen. Laws §§ 28-5-7.4(a)(1), (3), (2), (4) (2015)

33 R.I. Gen. Laws §§ 28-5-6(8)(i), (7) (2015).

34 Tex. Loc. Gov't Code §180.004 (2001).

35 2016 Utah Laws Ch. 330 (to be codified at Utah Code §§ 34A-5-106(1)(g), (7)).

36 Utah Code §§ 34A-5-102(i), (h) (2015).

37 W. Va. Code §§ 5-11b-1, *et seq.* (2014).

38 Ibid.; W. Va. Code § 5-11-3(d) (1998).

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at www.NationalPartnership.org.

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