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New Jersey Introduces Bill Proposing To Amend The New Jersey Law Against Discrimination To Prohibit Discrimination And Require “Reasonable Accommodation” In Case of Pregnancy

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Recently, in a prior Alert, we notified you that New York City’s Human Rights Law had been amended to require that employers offer a “reasonable accommodation” to “pregnant employees who suffer medical conditions related to pregnancy and childbirth.” It now looks like New Jersey is following suit.

On September 30, 2013, a bill sponsored by New Jersey Senator Loretta Weinberg was introduced which, if passed, would amend the New Jersey Law Against Discrimination (“NJLAD”) to prohibit discrimination based on pregnancy, childbirth or related medical conditions. The NJLAD applies to employers in New Jersey of any size.

Many employers may wonder, doesn’t New Jersey law already provide these protections? The answer is yes – but, through New Jersey case law. For example, the NJLAD prohibits gender and handicap discrimination, which the courts in New Jersey have interpreted to include pregnancy and temporary medical conditions resulting from pregnancy.

Senator Weinberg’s Bill, however, would bridge the gap by specifically amending the NJLAD to include both pregnancy and pregnancy-related medical conditions to the list of prohibited employment discrimination practices. It specifies that a pregnant employee shall not be treated, for employment-related purposes, in a manner less favorable than other employees, who are not pregnant, but similar in their ability or inability to work.

More importantly, this new Bill would also affirmatively create a new protection for pregnant employees suffering from pregnancy-related medical conditions, codifying New Jersey case law which recognizes that certain pregnancy-related medical conditions qualify as a “handicap” under the NJLAD. If passed, this Bill will require New Jersey employers to provide reasonable accommodations for pregnancy-related needs when requested by pregnant employees with the advice of her physician. A reasonable accommodation may also include an unpaid leave of absence. Finally, employers may require that the pregnant employee provide documentation from her physician in support of her request.

Bottom Line:

Although this Bill has just been introduced and not yet passed, New Jersey employers are encouraged to review their existing policies regarding leave and reasonable accommodation for other disabilities (as New Jersey law already prohibits discrimination against temporary disabilities related to pregnancy). When in doubt, give us a call to discuss your particular situation to ensure compliance with New Jersey law, prior to taking action with regard to pregnant employees.

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