

LABOR & EMPLOYMENT

ALERT

NEW JERSEY LEGISLATURE AMENDS NJLAD TO PROTECT PREGNANT WORKERS

By Jordan Kaplan

On January 6, 2014, both houses of the New Jersey Legislature emphatically passed S2995, fighting employment discrimination against pregnant women and those who suffer medical conditions related to pregnancy and childbirth. Pending approval from Governor Christie, the bill seeks to amend the New Jersey Law Against Discrimination (NJLAD) to specifically include “pregnancy” as a protected class. The pregnancy classification would not be limited to women presently carrying a child, but also: pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, including recovery from childbirth. Accordingly, employers may be liable under NJLAD if the employer knows, or should know, that a woman is affected by pregnancy and the woman is treated in a manner less favorable than others who are not affected by pregnancy, but similarly situated in their ability to perform.

The proposed amendment also requires employers to reasonably accommodate women affected by pregnancy, so long as the requests do not put an undue hardship on the employer’s business operations. The New Jersey Legislature offered examples of reasonable accommodations that an affected employee may request, including: bathroom breaks; breaks to drink more water; periodic rest; assistance with manual

labor; job restructuring or modified work schedules; and temporary transfers to less strenuous or hazardous work.

However, if the employer can show that providing reasonable accommodations would impose an undue hardship on the operation of its business, it would not be required to provide reasonable accommodations. Factors to consider as to whether providing accommodations imposes an undue hardship on the employer’s business include: (1) the overall size of the employer’s business with respect to the number of employees; (2) the number and type of facilities and size of budget; (3) the type of the employer’s operations, including the composition and structure of the employer’s workforce; (4) the nature and cost of the accommodation needed; and (5) the extent to which the accommodation would involve a waiver of an essential job requirement.

Employers with questions relating to application of this law should contact experienced employment counsel before making any determinations.

For more information about this alert or if you have any questions or concerns, please contact Jordan Kaplan at 973.994.7819 or jbkaplan@foxrothschild.com or any member of Fox Rothschild’s Labor & Employment Department.

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