

## Massachusetts Adopts New Workplace Protections for Pregnant Workers

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Yesterday, Massachusetts Governor Charlie Baker signed the Pregnant Workers Fairness Act (“PWFA”) into law. The PWFA, which will go into effect on April 1, 2018, requires that employers provide reasonable accommodations to pregnant employees upon their request. The final version of the law combines the bill passed in May 2017 by the Massachusetts House of Representatives with a similar bill approved by the Massachusetts Senate in June 2017. (Our alert on the passage of the House bill can be found [here](#).)

Under the PWFA, Massachusetts employers must provide workers with reasonable accommodations for pregnancy and pregnancy-related conditions such as lactation unless doing so would cause the employer undue hardship. Upon a current or prospective employee’s request, the employer must engage in a timely, good faith interactive process to determine the appropriate accommodation in a given circumstance. Though employers can require medical documentation of the need for most accommodations, they may not do so when the requested accommodation is (1) more frequent breaks, (2) seating, (3) limits on lifting over 20 pounds, or (4) private non-bathroom space for expressing breast milk. Also, an employer cannot require a pregnant employee to accept an accommodation that the employee does not need in order to perform the essential functions of the job, nor can an employer require a pregnant employee to take a leave of absence if other reasonable accommodations are available.

In addition, the PWFA amends the Massachusetts Fair Employment Practices Act (“Chapter 151B”) to expressly ban employment discrimination against individuals who are pregnant or have a pregnancy-related condition. The law also prohibits employers from retaliating against current or prospective employees for requesting or using a reasonable accommodation due to pregnancy or a pregnancy-related condition. Massachusetts employers will be required to provide notice to new and existing employees about their right to be free from pregnancy discrimination, including their right to reasonable accommodations for their pregnancies or pregnancy-related conditions.

In preparation for the April 1, 2018 effective date, employers should consider reviewing their workplace policies to ensure they are in compliance with the new law. Specifically, employers should consider updating their employee handbooks before April 1, 2018 to provide employees with the notice mandated by the PWFA. Employers also will want to make sure that human resources personnel and supervisory employees are trained on these new employer obligations to avoid future discrimination or retaliation claims under Chapter 151B.

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