

Client Alert **Employment & Labor**

New Pregnancy Accommodation Law Enacted in New Jersey

On January 21, 2014, Governor Chris Christie signed into law, effective immediately, a bill that amends the New Jersey Law Against Discrimination (“LAD”) by expanding the protections afforded to employees affected by pregnancy. Specifically, the newly signed bill (the “LAD Amendment”) adds pregnancy to the list of protected categories under LAD, and expressly requires employers to provide reasonable accommodations to employees impacted by pregnancy.

Under the LAD Amendment, an employee affected by pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, including recovery from childbirth, may request, on advice of her physician, a “reasonable accommodation.” Such accommodations may include, but are not limited to, provision by her employer of:

- bathroom breaks;
- breaks for increased water intake;
- periodic rest;
- assistance with manual labor;
- job restructuring or modified work schedules; and
- temporary transfers to less strenuous or hazardous work.

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An employer may not in any way penalize an employee for requesting or utilizing a pregnancy-related accommodation, and must ensure that it does not treat employees seeking accommodations for pregnancy-related reasons any less favorably than it does employees who seek accommodations for reasons unrelated to pregnancy (e.g., a back injury), but who are similarly able or unable to work.

The obligation of employers to accommodate employees affected by pregnancy and related conditions is not absolute, however. Where provision of such accommodations would constitute an “undue hardship,” employers may decline requests to provide them. The LAD Amendment sets forth the following factors to guide assessment of whether a particular accommodation would impose an undue hardship upon the employer:

- the overall size of the business, including the number of employees, number and type of facilities, and budget;
- the type of operations, including the composition and structure of the employer’s workforce;
- the nature and cost of the accommodation, taking into consideration the availability of tax credits, tax deductions, and outside funding; and
- the extent to which the accommodation would involve waiving an essential job requirement, as opposed to a tangential or nonbusiness necessity requirement.

Practice Tips

Employers should note that the LAD Amendment does not specify the duration of leave available to an employee for pregnancy and related conditions. Accordingly, where an employee seeks, as a reasonable accommodation under the LAD Amendment, additional leave beyond the 12 weeks provided for under the Family Medical Leave Act and / or the New Jersey Family Leave Act, employers must, at the very least, review and consider such requests.

To ensure compliance with the LAD Amendment, employers should immediately review and, if necessary, revise their reasonable accommodation policies and procedures. They should also take steps to educate their managers and human resources professionals regarding the requirements of the LAD Amendment.

For assistance in drafting revised policies, or in training management on the requirements of such policies, please contact one of the following Sills Cummis & Gross employment attorneys:

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