

New Jersey Law Against Discrimination Expanded to Include Civil Rights Protections for Breastfeeding Mothers

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On January 8, 2018, Governor Christie signed into law an amendment to the New Jersey Law Against Discrimination (NJLAD) expanding protections to women who return to the workforce after childbirth and choose to breastfeed their child. These protections apply to all New Jersey employees, regardless of the size of their employer's workforce.

Previously, the NJLAD made it unlawful for an employer to discriminate against an individual "in compensation or in terms, conditions or privileges of employment" on the basis of pregnancy. The amended law expands the civil rights protections afforded to workers under the NJLAD to include breastfeeding employees and requires employers to provide reasonable accommodations for breastfeeding mothers to nurse or express milk. This includes providing reasonable break time each day to the employee and a suitable room or other location with privacy, other than a toilet stall, in close proximity to the work area for the employee to express breast milk. The amendment further prohibits employers from penalizing an employee for requesting a reasonable accommodation to express milk.

An employer unable to reasonably accommodate a breastfeeding employee must demonstrate that providing an accommodation would be an undue hardship on the business operations of the employer.

In March 2010, the Fair Labor Standards Act (FLSA) was similarly amended to require employers to provide "reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth" as frequently as needed by the employee and further required the employer to provide "a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk." The FLSA, however, exempts employers that employ less than 50 employees from the reasonable break time requirement if such requirements would impose an undue hardship on the employer. Unlike the FLSA, the NJLAD affords civil rights protections to breastfeeding mothers returning to work, regardless of the size of the employer's workforce. Similarly, while the FLSA requires that the reasonable break time accommodation be provided to an employee for up to one year after the child's birth, the NJLAD imposes no such limitation.

Published Articles (Cont.)

Neither the NJLAD nor the FLSA require that the employer compensate the employee for any work time spent for the purpose of nursing or expressing milk.

Please contact the author of this Alert, **Punam P. Alam**, for additional information.