

Colorado Becomes Most Recent State To Pass Pregnancy Anti-Discrimination And Reasonable Accommodation Law

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Recently, Colorado became one of an increasing majority of states to pass legislation preventing discrimination against pregnant workers and requiring employers to provide reasonable accommodations for pregnant workers. (As previously reported, Illinois passed similar legislation effective January 1, 2015.) **Colorado's Pregnant Workers Fairness Act** (HB 16-1438) went into effect on August 10, 2016. The Colorado law requires all employers to post signs regarding the law, prohibits discrimination against pregnant workers, and requires employers to grant reasonable accommodations to pregnant workers (absent a showing of undue hardship, which is a very high threshold), such as more frequent breaks, temporary transfers to less strenuous positions, modified work schedules, and other accommodations. While this particular law applies only to Colorado employers, it marks a continued increase in activity by local, state, and federal legislatures, as well as governmental administrative bodies, in protecting and accommodating pregnant workers and workers who may have pregnancy-related needs, such as lactation, medical disabilities, and other issues. Employers should keep in mind that their obligations to pregnant workers do not necessarily end upon the birth of a child and/or expiration of any Family Medical Leave Act (FMLA) leave. Rather, a web of interrelated local, state, and federal laws may govern a postpartum employee. For instance, in 2010, the Patient Protection and Affordable Care Act (ACA) amended Section 7 of the Fair Labor Standards Act (FLSA) to, among other things, require employers to provide reasonable break time for an employee to express breast milk for a nursing child for a

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period of one year after the child's birth. Moreover, if an employee has physical or mental conditions related to pregnancy or childbirth, the ADA may prohibit discrimination and/or require reasonable accommodation of those conditions