



South Carolina Delivers New Pregnancy Accommodations Law

Insights

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South Carolina Governor Henry McMaster recently signed the Pregnancy Accommodations Act into effect, ushering in one of the most significant pieces of workplace legislation in recent history. The new law has the stated purpose of combatting pregnancy discrimination, promoting public health, and ensuring full and equal participation in the workforce by requiring employers to provide reasonable accommodations to employees for medical needs arising from pregnancy, childbirth, and related medical conditions.

The Act, signed on May 17, imposes immediate notice obligations on employers with regard to their new employees. It also provides for a 120-day window—or until September 14, 2018—to implement new notice requirements for existing employees. What do South Carolina employers need to know about this new law?

Required Postings And Notice

First and foremost, the Act requires all employers to provide written notice to all employees of their “right to be free from discrimination for medical needs arising from pregnancy, childbirth, or related medical conditions.” This notice must be provided to all new employees at the beginning of employment. For existing employees, you must advise of this right via a conspicuous posting within 120 days of the Act’s passage, or by September 14.

Reasonable Accommodations

The Act also requires you to provide reasonable accommodations to employees for pregnancy and related medical conditions, including lactation. The Act provides that you may be required to provide accommodations of the same type and manner as you would for other employees or classes of employees requiring reasonable accommodation for non-pregnancy related conditions. The Act also specifically lists examples of accommodations that you might be required to provide, including:

- providing more frequent or longer break periods;
- providing more frequent bathroom breaks;
- providing a private place, other than a bathroom stall, for the purpose of expressing milk;
- modifying food or drink policies;

- providing seating or allowing the employee to sit more frequently if the job requires the employee to stand;
- providing assistance with manual labor and limits on lifting;
- temporarily transferring the employee to a less strenuous or hazardous vacant position, if qualified;
- providing job restructuring or light duty, if available; and
- acquiring or modifying equipment or devices necessary for performing.

New Unlawful Employment Practices

Finally, the Act provides that the term “because of sex” or “on the basis of sex” for purposes of unlawful employment practices shall also mean “because of or on the basis of pregnancy, childbirth, or related medical conditions, including but not limited to, lactation.” The Act further provides that women affected by pregnancy, childbirth, or related medical conditions must be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs.

Therefore, once the law goes into effect, it will be an unlawful employment practice for an employer to:

- fail or refuse to make a reasonable accommodations for medical needs arising from pregnancy, childbirth, or related medical conditions for applicants or employees;
- deny employment or opportunities to an employee or applicant if the denial is based on the employee’s or applicant’s need for a reasonable accommodation;
- require a pregnant employee or applicant to accept an accommodation not of her choosing, if the applicant or employee does not have a known limitation related to pregnancy or the accommodation is unnecessary for her to perform essential job functions;
- require the employee to take leave under any leave law or policy if another reasonable accommodation can be provided; or
- take adverse action against an applicant or employee for requesting or using a reasonable accommodation for a medical need arising from or related to pregnancy, childbirth, or related medical condition.

Implementation And Next Steps

The Act provides for the South Carolina Human Affairs Commission (SCHAC) to promulgate regulations for this Act. At this time, neither the legislature nor the SCHAC has provided guidance on

the Act, or released a suggested poster which would be considered as being compliant with the Act. If and when any such guidance is released, we will provide updates to affected employers.

In the meantime, you should use the next several months to prepare for final implementation of the law. Some suggested steps include the following:

- begin incorporating the notice provisions of the Act in your new hire onboarding process;
- conspicuously post a notice to current employees of their right to be free from pregnancy discrimination at your workplace;
- revise your EEO policies to incorporate anti-pregnancy discrimination language;
- consider the types of accommodations that could be implemented in your work environment;
- communicate changes in company policies to all supervisors and managers; and
- train your supervisors and managers with regard to how to handle accommodation requests.

For more information about how this new law will affect your workplace, contact any attorney in our [Columbia office](#) at 803.255.0000, or your regular Fisher Phillips attorney.

This Legal Alert provides an overview of a specific new state law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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