

# HR Insights

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## New MA Law Requires Reasonable Accommodation for Pregnancy and Related Conditions

Governor Baker signed the Massachusetts Pregnant Workers Fairness Act into law on July 27, 2017. The new law, effective April 1, 2018, expands the Massachusetts' nondiscrimination law covering private employers with six or more employees to prohibit discrimination based on pregnancy or based on a condition related to pregnancy such as lactation.

Under the new law, if an employee requests a reasonable accommodation because of pregnancy or related condition, including, but not limited to, lactation or the need to express breast milk for a nursing child, an employer must do so unless it can show that the accommodation would impose an undue hardship on the employer's program, enterprise, or business. The law also prohibits an employer from:

- Taking any adverse action against an employee who requests or uses a reasonable accommodation
- Denying an employment opportunity based on the need to reasonably accommodate the employee
- Requiring an employee to accept an accommodation the employee chooses not to accept when the accommodation is unnecessary for performing the essential functions of the job
- Requiring an employee to take leave when another reasonable accommodation can be made
- Refusing to hire an applicant because of a pregnancy or related condition if the applicant can perform the essential job functions with reasonable accommodation

### **Reasonable Accommodations**

Reasonable accommodations include:

- More frequent or longer paid or unpaid breaks
- Time off to attend to a pregnancy complication or to recover from childbirth with or without pay
- Acquisition or modification of equipment or seating

- Temporary transfer to a less strenuous or hazardous job
- Job restructuring
- Light duty
- Private non-bathroom space for expressing breast milk
- Assistance with manual labor
- Modified work schedule

When a request for an accommodation is made, an employer must engage in a timely, good faith, and interactive process to determine an effective, reasonable accommodation that enables the employee or prospective employee to perform the essential functions of the job.

### **Documentation for Accommodations**

An employer may require documentation about the need for a reasonable accommodation come from an appropriate health care or rehabilitation professional. However, an employer cannot require documentation for any of the following accommodations:

- More frequent restroom, food, or water breaks
- Seating
- Limits on lifting more than 20 pounds
- Private non-bathroom space for expressing breast milk

### **Notification Requirements**

Employers must notify all employees in writing of their rights under the law in a handbook, pamphlet, or other means to the following (but not limited to):

- **Existing Employees:** On or before April 1, 2018
- **New Employees Hired after April 1, 2018:** On or before date of hire
- **Employee Who Notifies the Employer of Pregnancy or Related Condition April 1, 2018 or Later:** Within 10 days of receiving the employee's notification

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