

New Pregnancy Protections Impacting ALL Illinois Employers!!

Labor & Employment Law Update

By Jeffrey Risch on June 19, 2014

HB 8, pushed through the Illinois Legislature and ready to be signed into law by Governor Quinn, amends the Illinois Human Rights Act to add to the list of employment discrimination, an employer's failure to provide a reasonable accommodation to an employee based on conditions related to pregnancy or childbirth. The new amendment will create a legal quagmire for Illinois employers. Employers currently must balance the rights of employees under the current Illinois Human Rights Act (IHRA), the federal Americans with Disabilities Act (ADA), the federal Family Medical Leave Act (FMLA), the federal Pregnancy Discrimination Act (PDA) and the Illinois Workers' Compensation Act (IWCA). **The amendment's "reasonable accommodations" requirements cover much broader issues and mandate greater responsibilities on employers than current laws covering other protected groups.**

HB 8 provides leave rights to all employees well beyond FMLA: The impact of these changes could be devastating to employers. The definition of "reasonable accommodation" includes "time off to recover from childbirth; and leave."

- FMLA applies to employers of 50 or more. **HB 8 covers all Illinois employers.**
- FMLA provides up to 12 weeks of unpaid leave. **HB 8 has no limits on the term of leave.** An employer could be required to hold a position open indefinitely.
- FMLA has employee eligibility requirements of work of 1,250 hours in the past 12 months. **No eligibility requirements are in HB 8.**
- FMLA provides that individuals who have used up all or part of their 12 weeks for other purposes cannot use that time for another serious medical condition within the same 12-week period. **HB 8 allows unlimited leave for pregnancy, childbirth or conditions related to the pregnancy or childbirth.**

HB 8 allows the employee, probationary employee and job applicant to pick the accommodation and employer must accommodate unless the request creates an "undue hardship".

HB 8's definition of "pregnancy" is expansive. "Pregnancy" is defined as pregnancy, childbirth or conditions related to pregnancy or childbirth. Could it include infertility??? Could it include certain activities related to ovulation???

No other state has as extensive statute as proposed in HB 8.

Illinois employers OF ALL SIZES and industries must understand the new amendment! It will completely reshape how all employers function in Illinois.

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