

January 19, 2023

Omnibus Spending Bill Includes New Workplace Protections for Pregnant and Nursing Employees

Right before the new year, Congress passed, and President Biden signed into law, an omnibus spending bill, the [Consolidated Appropriations Act, 2023](#). Tucked inside the spending bill are two provisions that provide greater federal protections for pregnant and nursing employees in the workplace: the Pregnant Workers Fairness Act (PWFA) and the Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act.

Pregnant Workers Fairness Act

The PWFA contains a framework that is similar to the Americans with Disabilities Act (ADA)—it requires employers with 15 or more employees to provide reasonable accommodations to employees for known limitations related to pregnancy, childbirth or related medical conditions, unless the accommodation would impose an undue hardship. Also, similar to the ADA, employers have an obligation to engage in an "interactive process" with employees to arrive at a reasonable accommodation under the PWFA. The PWFA prohibits employers from requiring employees to take leave, whether paid or unpaid, if another reasonable accommodation can be provided. It also prohibits employers from taking adverse action against employees for requesting a reasonable accommodation for known limitations related to pregnancy, childbirth or related medical conditions.

The PWFA becomes effective on June 27.

PUMP for Nursing Mothers Act

The spending bill also contains the PUMP for Nursing Mothers Act, which amends the Fair Labor Standards Act (FLSA) to require employers to provide reasonable break time for employees to express breast milk for one year following the birth of a child. The break time may be unpaid but will be considered hours worked if the employee is not completely relieved from duty for the entirety of the break. Employers must also provide employees with a place to express breast milk, other than a bathroom, that is shielded from view and free from intrusion.

The PUMP for Nursing Mothers Act provides an exception for employers with 50 or fewer employees if the requirements would impose an undue hardship.

The PUMP for Nursing Mothers Act took effect immediately upon enactment.

Takeaway

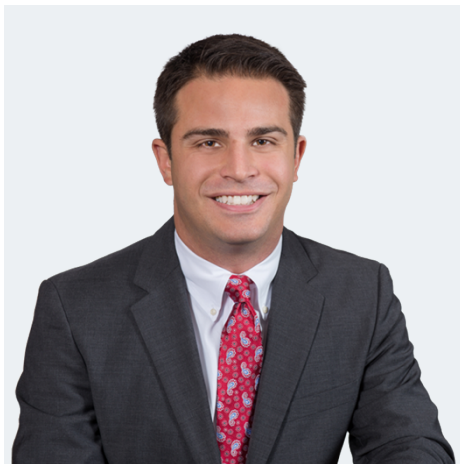
Some of these requirements may sound familiar, as certain states already have similar workplace protections for pregnant and nursing employees. For example, Connecticut, Massachusetts, New Jersey and New York have already implemented laws with similar protections for [pregnant employees](#) and [nursing employees](#). Therefore, employers in these jurisdictions may already be in compliance with the requirements of the PWFA and PUMP for Nursing Mothers Act. Nonetheless, employers should review their employee handbooks and applicable state law to ensure compliance with the new federal workplace protections as we begin the new year.

Authors



Lindsey A. McCarthy
Associate

Hartford, CT | (860) 275-0211
lmccarthy@daypitney.com



James M. Leva
Partner

Parsippany, NJ | (973) 966-8416
Stamford, CT | (973) 966-8416
jleva@daypitney.com



Theresa A. Kelly
Partner

Parsippany, NJ | (973) 966-8168
tkelly@daypitney.com



Heather Weine Brochin
Partner

Parsippany, NJ | (973) 966-8199
New York, NY | (212)-297-5800
hbrochin@daypitney.com



Glenn W. Dowd
Partner

Hartford, CT | (860) 275-0570
gwdowd@daypitney.com



Francine Esposito
Partner

Parsippany, NJ | (973) 966-8275
fesposito@daypitney.com



Rachel A. Gonzalez
Partner

Parsippany, NJ | (973) 966-8201
New York, NY | (212) 297-5800
rgonzalez@daypitney.com



Daniel L. Schwartz
Partner

Stamford, CT | (203) 977-7536
New York, NY | (212) 297-5800
dlschwartz@daypitney.com