

Illinois Amends Workplace Accommodation Protections for Nursing Mothers

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Illinois Governor Bruce Rauner recently signed amendments to The Nursing Mothers in the Workplace Act (the Act), which was first enacted in 2001. The Act applies to employers with six or more employees and allows nursing mothers reasonable break time each day to express breast milk for their infant children. The 2018 amendments to the Act offer additional protections to nursing mothers regarding compensation for and frequency of the breaks, place a one year temporal limitation on the protections of the Act, and provide clarification regarding the undue hardship exception.

With regard to compensation and frequency, the pre-amendment version of the Act only required that employers provide “unpaid” break time “each day.” The prior version also stated that, “if possible,” such break time had to run concurrently with break time already provided to the employee. The 2018 amendments now require that such breaks be provided on a “reasonable” basis for one year after the child’s birth, as needed by the nursing mother (rather than just daily), and that such breaks cannot “reduce an employee’s compensation for time used for the purpose of expressing milk or nursing a baby.”

As to the hardship exception, the pre-amendment version of the Act provided an exception to the Act’s requirements in circumstances where providing such breaks would “unduly disrupt the employer’s operations.” The revised Act now extends such an exception only where providing such breaks would “create an undue hardship,” as defined by the Illinois Human Rights Act. That statutory definition limits such exceptions to situations that are “prohibitively expensive or disruptive” when considered in light of number of factors, including the impact of the accommodation upon the operation of the facility and the overall financial resources of the employer. As made clear in the Illinois Human Rights Act, employers bear the burden of demonstrating undue hardship.

These amendments are effective immediately. Employers in Illinois should evaluate their current lactation accommodation policies, particularly with regard to compensation for reasonable breaks to express milk.

If you have questions, please contact any of the Labor & Employment Practice Group attorneys listed below or your usual Winston & Strawn contact.

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