

CLIENT ALERT

New York Legislative Update: New Employment Protections for Women

OCTOBER 23, 2015

On October 21, 2015, New York Governor Andrew Cuomo signed into law a number of bills, a part of his Women's Equality Agenda, aimed at strengthening New York pay equity and anti-discrimination laws. The new laws also expand the state's ban on sexual harassment in the workplace and increase protections and accommodations for workers who have children or are pregnant.

Governor Cuomo's press release boasted that the comprehensive measures "make New York a model of equality for women." The laws were part of a package that also included legal safeguards against domestic violence, human trafficking, and housing discrimination. The following employment-related laws are all set to take effect 90 days after signing, on January 19, 2016:

- **Pay Equity:** This bill (S. 1 / A. 6075) prohibits employers from paying women less than men for performing equal work in the same establishment, unless differentials are based on a number of limited exceptions (such as seniority system, merit system, quantity or quality system, or "a bona fide factor other than sex, such as education, training, or experience"). The bill eliminates a loophole in the current law that allows employers to prohibit employees from discussing their salaries under threat of termination or suspension. Specifically, the bill provides that employers may not "prohibit an employee from inquiring about, discussing, or disclosing" wages to another employee. Employers may, however, "establish reasonable workplace and workday limitations on the time, place and manner" for such inquiries by written policy. Further, the bill increases the amount of liquated damages available to an employee if an employer willfully violates the law.
- **Sexual Harassment Coverage:** This bill (S. 2 / A. 5360) expands the definition of "employer" to cover all employers within New York in sexual harassment cases so that an employee of any business can file a workplace sexual harassment complaint. Currently, the definition of "employer" excludes employers with fewer than four employees. **Attorney's Fees in Employment Cases:** This bill (S. 3 / A.7189) allows successful plaintiffs, at the discretion of the commissioner or court, to recover their reasonable attorney's fees as a prevailing party in employment or credit discrimination cases where sex is the basis of the discrimination. Under existing New York State law, plaintiffs cannot recover attorney's fees in employment discrimination cases.
- **Family Status Discrimination:** This bill (S. 4 / A. 7317) prohibits employment discrimination based on familial status. Currently, New York State law only prohibits discrimination based on familial status in the areas of housing and

credit. The new law prohibits employers, employment agencies, licensing agencies, and labor organizations from discriminating against workers based on their familial status.

- **Protection from Pregnancy Discrimination:** This bill (S. 8 / A. 4272) requires employers to provide employees with reasonable accommodations for “pregnancy-related conditions,” which are treated as temporary disabilities under the law. Covered pregnancy-related conditions are limited to those conditions that, with a reasonable accommodations, do not prevent the employee from performing the job in a reasonable manner. The law requires that employees “cooperate” in providing medical or other information necessary to verify the existence of the condition or the consideration of the accommodation.

Click [here](#) to view the newly enacted New York legislation. New York employers should ensure all policies and procedures are in compliance with the new legislation.

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