

Accommodate Pregnant Employees And Nursing Mothers, Or Expect Consequences

November 28, 2017 | [Employment Discrimination, Pregnancy, Labor And Employment](#)

Employers must provide pregnant employees and nursing mothers with necessary workplace accommodations or face possible legal liability in court. That's the lesson to be learned from a recent case that is one of the first to analyze and apply certain provisions in Illinois law. In [Spriesch v. City of Chicago](#), a judge in the U.S. District Court for the Northern District of Illinois recently ruled that a fire department paramedic could proceed with at least some of her claims against her employer alleging discrimination both during her pregnancy (by being forced to take a leave of absence she did not want) and when she returned to work as a nursing mother (by being denied breaks and appropriate private space to pump breast milk). Notably, the court ruled that the [Illinois Nursing Mothers in the Workplace Act](#) allows an employee to file a lawsuit to remedy an alleged violation of the Act. Although no specific language in the Act provides for such a private right of action, the court found that it was implicit and allowed the claim to proceed into the discovery phase of the case.

The court also allowed the paramedic to move forward on a claim under the new Illinois Human Rights Act provisions that require [pregnancy accommodations](#). Although holding that the new provisions are not retroactive, and thus anything prior to the Jan. 1, 2015, effective date of the amendments was time-barred, the court determined that the employee's claim that she was unlawfully required to take a leave of absence during her pregnancy could proceed under a continuing violation theory. The employee also alleged a plausible disparate impact claim by alleging that the fire department's work location assignment policy had a disproportionate negative impact on nursing mothers because it caused her to be assigned to firehouses that had no private space for her to pump breast milk – and thus she had to use space in an ambulance or a firehouse bathroom.

Illustrating the many risks associated with failure to accommodate pregnant employees or failure to provide breaks and space for nursing mothers, the lawsuit also alleged violations of federal laws that prohibit pregnancy discrimination under Title VII of the Civil Rights Act and that require breaks for nursing mothers under the Fair Labor Standards Act.

Whether you are a public or private employer, and whether you are a large employer or small employer, be aware of and comply with all applicable laws that address pregnancy and post-pregnancy situations. To be proactive, ensure policies and procedures are in place that address pregnancy accommodations and leaves of absence. Managers should be reminded that they cannot take any actions that might be viewed as retaliatory because an individual has requested or received accommodations, has taken leave under FMLA or other leave policies, or has requested breaks as a nursing mother. For a more detailed analysis of the pregnancy accommodation requirements under the Illinois Human Rights Act, see our [prior blog post](#).

RELATED PRACTICE AREAS

Arbitration and Grievances
Disability, Leave and Medical Issues
EEO Compliance
Labor and Employment
Workplace Culture 2.0

RELATED TOPICS

Employment Law
Illinois Human Rights Act
Pregnancy Discrimination Act