

New York State Clarifies Rights of Working Mothers

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New York State has amended its Public Health Law through enactment of two pieces of legislation relating to breastfeeding and expression of breast milk. The legislation includes specific provisions applicable to employers.

The first of the two bills, effective immediately, establishes the right to breastfeed a baby at an employee's place of employment in an environment that does not discourage breastfeeding or the provision of breast milk. The bill also amends the Public Health Law to empower the commissioner to conduct educational activities to encourage and facilitate employers to establish such workplace environments. The legislation envisions environments that may include sanitary locations for breastfeeding and availability of refrigerators for storage of breast milk. It is unclear whether employers now have some affirmative obligations to allow an employee who is nursing to bring her child to work.

Additionally, unlike the second bill, discussed below, and existing New York Labor Law limiting breastfeeding rights to up to three years following childbirth, this bill does not establish a fixed time limit. Accordingly, it is unclear whether employers have any affirmative obligations beyond the three-year period after childbirth.

The second bill, effective January 1, 2016, reaffirms existing rights and obligations established by the New York Labor Law providing for employees' rights to reasonable unpaid breaks to express breast milk at work for up to three years following childbirth. It also specifically provides that such rights include the right to pump breast milk. Since the new legislation does not affirmatively state that pumping must be for the employee's nursing child, an argument can be made that an employee has the right to pump for other reasons, such as to act as a wet nurse.

Jackson Lewis attorneys are available to assist employers with these and other workplace requirements.

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