
BILL NO.: House Bill 523
TITLE: State Personnel – Employee Accommodations – Pregnancy and Childbirth
COMMITTEE: House Appropriations Committee
DATE: February 11, 2020
POSITION: SUPPORT

In 2013 Maryland amended the Fair Employment Practices Act by passing The Reasonable Accommodations for Disabilities Due to Pregnancy Law. This law provides pregnant workers who suffer pregnancy-related medical conditions the right to temporary, reasonable accommodations by their employers. Arguably, the law intended to include accommodation requests for healthy pregnant workers as well – but as it was not explicitly included in the bill many employers have failed to comply with those requests. In February 2017 a Maryland federal court found that the Maryland Fair Employment Practices Act does not apply to healthy pregnancies and that as such employers are not required to provide reasonable accommodations unless and until a pregnancy-related complication has already arisen¹.

Currently, we know that a pregnant worker with a documented complication is entitled to a reasonable accommodation from her employer. But what about those State employees who are experiencing a normal, healthy pregnancy but have been advised by their doctor that they should take certain precautions as a preventative measure? Should they be required to put their health at risk, and jeopardize their pregnancy, by performing work that goes against common sense, or their doctor's orders, before they are entitled those same, temporary accommodations? As we know, medical needs for temporary accommodations can arise from a normally progressing pregnancy to ensure the pregnancy remains healthy. Shouldn't our laws be pro-active, rather than wait until a pregnancy has developed serious medical conditions?

House Bill 523 seeks to address this issue and build upon the 2013 legislation by closing the loop hole established in *Saah*, as it relates to employees within the State Personnel Management System. This bill would clarify that *all* pregnant state workers would be entitled to reasonable accommodations that are necessary preventative measures aimed at maintaining a healthy pregnancy. It further strengthens existing state law by prohibiting the State from forcing a pregnant employee onto leave against her wishes when another reasonable accommodation would allow her to continue work.

It should be noted that in the bill's fiscal note it was determined that “the bill generally codifies existing practice for most State agencies under the State Personnel and Pensions Article. To the extent that a unit of State government does not already comply with the bill's requirements, *State finances are not materially affected.*” To the extent any modifications to existing policies are required, the changes to existing law are small, and would impose little burden on the State, but would have a great impact on women who wish to continue working and supporting their families throughout their pregnancies.

- **It clarifies that all pregnant employees are entitled to temporary, reasonable accommodations**
- It is the same analysis and obligations that the State is already applying to pregnancy complications under our current law, and the accommodations expected would be similar to those already provided to other employees, such as lifting, standing, and walking accommodations. All accommodations would be **temporary** in nature.

¹ *Saah v. Thumel*, (2017 U.S. Dist. LEXIS 17015)

- If an employee's request would create an undue burden, the State **does not** have to provide an accommodation
- If an employer asks for medical documentation, and the employee fails to provide it, the State **does not** have to provide the accommodation
- Nothing changes, except for a slightly greater number of women will receive temporary, reasonable accommodations.

Finally, it is worth noting that 27 states and the District of Columbia have passed bills or issued Executive Orders to explicitly grant pregnant employees the right to reasonable accommodations at work. Twenty-two of these bills have been passed since 2013, all with bipartisan support, and in the majority of cases with unanimous or near-unanimous support. And New Mexico is primed to become the 28th.

The expectations and obligations imposed under this bill are the same as have been in place since the 2013 enactment of the Maryland Pregnancy Discrimination Act. The only difference is the expansion to include pregnant workers at all stages of pregnancy – not just those with complications and disabilities. Because the Women's Law Center of Maryland understands that a diverse and well-rounded workforce includes women in all stages of life, and that Maryland families depend on pregnant women to support them, the WLC urges a favorable report for HB 523.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.