

PREGNANT EMPLOYEES AND JOB APPLICANTS

By Karen Sutherland

State and federal laws have a variety of protections for pregnant or potentially pregnant employees and job applicants. Federal protections include the Pregnancy Discrimination Act, which prohibits discrimination based upon “pregnancy, childbirth, or related medical conditions;” and the Family Medical Leave Act (FMLA), which allows a new mother or father to take up to 12 weeks of time off after the birth or adoption of a child, or the placement of foster child. The FMLA covers employers with 50 or more employees in the same geographic area and all governmental employers. There are also some eligibility requirements for employees under the FMLA, and state law provides additional leave under certain circumstances.

Washington’s Law Against Discrimination (WLAD) also protects women from pregnancy discrimination. The WLAD applies not only to existing employees, but to job applicants as well. For example, an employer may not consider a woman’s pregnancy or her potential to become pregnant when deciding whether to hire, promote, demote, or terminate her. Also, the employer must allow leave for pregnancy-related absences.

Washington also has a Parental Leave Act (PLA). This law requires employers with maternity policies to give the same benefits to fathers, adoptive parents and stepparents. The law applies to all Washington employers, regardless of size. The PLA does not require employers to adopt a maternity policy, but it does require them to offer the same benefits to fathers, stepparents and adoptive parents as they offer to new mothers if they do have a maternity policy. There are also laws related to using sick leave to care for a sick child that apply to both parents.

This brief article is a broad summary only. It lacks specificity about the law and about the effects of different fact patterns, and thus shall not be applied without consulting an attorney. It also focuses on Washington State law and federal law, and the laws of other jurisdictions may vary materially. The information set forth in this article is a broad and general overview of complex topics, and is not legal advice. It also does not take into account any changes to the law or in interpretations of the law that may have occurred since it was written. For more information, contact Karen Sutherland at ksutherland@omwlaw.com