**Delaware Breastfeeding Legislation**

**JURY DUTY**

Legislation was passed in Delaware requiring that breastfeeding women be excused from jury service in the courts in the State of Delaware for at least one year.  Senate Bill 84 was passed by the 148th Delaware General Assembly and signed into law by the Governor on June 30, 2015.

As a nation, health professionals, public health officials, and organizations promote breastfeeding to support healthy growth and development of infants and children.  Being called to jury duty during the period when a child is breastfeeding is disruptive as a mother is expected to be present for an entire trial.  Jury duty is disruptive to the infant’s feeding, as the child cannot be brought to court to feed and the mother cannot excuse herself to breastfeed or pump.  Infants who are accustomed to breastfeeding may not take a bottle, and requiring a breastfeeding mother to be separated from her child to be present in court can cause disruptions in feeding and milk supply and distress for both mother and child.  Physiologically, breastfeeding mothers are unable to skip feeding or pumping sessions, as milk must continue to be extracted from the body to maintain production of the required supply for the infant.

Previously in Delaware, breastfeeding mothers could apply for an individual exemption due to extreme hardship based on the dynamic outlined above.  As no uniform policy was in place, such an exemption may, or may not have been granted if a mother even felt comfortable bringing forward her concerns.  At present, no federal legislation exists on the subject and Delaware has taken a historic step in the direction of family friendly environments by mandating such a policy.

The legislation amends Section 4511, Title 10 of the Delaware Code to add new language regarding excuse from jury service for breastfeeding women:

A person who is not disqualified may be excused from jury service by the Court only upon a showing of undue hardship, extreme inconvenience or public necessity, for a period the Court deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the Court's direction. The Court may determine that membership in specified groups of persons or occupational classes constitutes a showing of undue hardship, extreme inconvenience or public necessity.  Women who are currently breastfeeding a child shall be excused from jury service for at least one year.

To be excused from jury services while breastfeeding, please follow all written instructions on your “Summons for Jury Service” requesting an excuse and cite the new law as stated in Senate Bill 84.

For additional and detailed information, please visit the Delaware General Assembly webpage: [http://legis.delaware.gov/LIS/lis148.nsf/vwLegislation/SB+84/$file/legis.html?open](http://legis.delaware.gov/LIS/lis148.nsf/vwLegislation/SB%2B84/%24file/legis.html?open) and [http://legis.delaware.gov](http://legis.delaware.gov/)

**PREGNANCY PROTECTION**

In 2014, Delaware passed historic legislation stating that employers may not discriminate against pregnant or lactating women.  The law addresses pregnancy accommodations and clarifies that the current prohibitions against sex discrimination in employment now include pregnancy, and lactation as a pregnancy-related condition.  Senate Bill 212 was passed by the 147th Delaware General Assembly and signed into law by the Governor on September 9, 2014.

In Delaware, under Title 19 of the Delaware Code it is now unlawful employment practice for an employer to:

Fail or refuse to hire, discharge, deny employment opportunities, or take adverse action to any individual or to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex (including pregnancy and lactation), sexual orientation, gender identity, or national origin

Limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of race, marital status, genetic information, color, age, religion, sex (including pregnancy and lactation), sexual orientation, gender identity, or national origin

For any employment-related purpose, fail or refuse to treat an employee or applicant for employment that the employer knows or should know is affected by pregnancy (or lactation) as well as the employer treats or would treat any other employee

Fail or refuse to make reasonable accommodations to the known limitations related to the pregnancy (or lactation) of an applicant for employment or employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such employer

Require an applicant for employment or employee affected by pregnancy (or lactation) to accept an accommodation that the applicant or employee chooses not to accept

Require an employee to take leave if another reasonable accommodation can be provided

Employers are now required to provide notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related conditions, including the right to reasonable accommodation to known limitations related to pregnancy, childbirth and related conditions.  This notice must be provided in writing to new employees at the beginning of employment, orally or in writing to existing employees within one hundred twenty days after the effective date and orally or in writing to any employee who notifies the employer of her pregnancy within 10 days of such notification.  This new law shall also be conspicuously posted at an employer’s place of business in an area accessible to employees.

If you have questions or request assistance with a discriminatory practice in the workplace, contact the Delaware Department of Labor’s Office of Discrimination: <http://dia.delawareworks.com/discrimination/file-a-charge.php>

For additional and detailed information, please visit the Delaware General Assembly: [http://legis.delaware.gov/LIS/LIS147.NSF/vwLegislation/SB+212?Opendocument](http://legis.delaware.gov/LIS/LIS147.NSF/vwLegislation/SB%2B212?Opendocument)