

FRIDAY MONDAY TUESDAY **WEDNESDAY** TODAY

Previous Next Bookmark Reprints

Feedback

Pregnancy Disability Rights to Become More Generous?

By Meg Thering and Betsy Johnson

A young, single mother of a toddler finds balancing working and having a child stressful. She decides to blow off her job one weekend to hang out with her boyfriend. Currently, in California, that employee would probably be fired and rightfully so. If California's proposed pregnancy disability leave law (PDL) regulations are passed, however, employers may find themselves unable to fire employees in similar situations, as these regulations state that employees should be given leave for mental conditions related to pregnancy or childbirth. Thus, even though this hypothetical employee's child was a toddler at the time the employee skipped work, the employee's trip could be characterized by a plaintiffs' attorney as due to a mental condition (stress) related to the birth of her child, therefore entitling her to job-protected (and potentially state-subsidized) leave.

Young, single moms aren't the only ones who should be interested in the proposed PDL regulations. Employers also should be interested, as they may soon have to grant more leave requests. Employers who oppose these proposed regulations should take the opportunity before they are passed to lobby the Legislature. Female attorneys should also be interested, as they may find themselves better able to balance working and having children if the regulations pass.

Currently, the PDL allows employees to take up to four months of leave if the employee is disabled due to pregnancy, as certified by her health care provider. All employers with five or more employees must comply. Employees are eligible for PDL without any length of service requirement. Thus, an employee could request PDL on her first day of work, which must be granted. Employees can seek to have their PDL subsidized through state disability payments.

One of the major proposed changes to the law is the expansion of the term 'affected by pregnancy' to encompass not just medical conditions related to a pregnancy, but to also include 'physical and mental conditions related to pregnancy or childbirth.'

Pregnant employees in California may also be eligible for leave under the California Family Rights Act (CFRA). Unlike the PDL, not all employees may be eligible for CFRA leave. Employees are only eligible if they have worked at least 12 months for their employers and at least 1,250 hours in the 12 months preceding their leave. The CFRA provides employees with 12 weeks of unpaid, job-protected leave to bond with a new child. (As is the case with PDL, employees may be eligible for state disability payments while on CFRA.) CFRA leave may not run concurrently with PDL. This means that an employee could conceivably be entitled to seven months of job-protected leave. Currently such situations are relatively rare; however, with the expansion of the reasons for which an employee may use PDL, this situation may become increasingly common.

Of course, pregnant employees may be entitled to 12 weeks of unpaid job-protected leave under the federal Family and Medical Leave Act (FMLA). The FMLA has the same eligibility requirements as the CFRA, and FMLA leave runs concurrently with PDL and CFRA leave.

While PDL is one of the most generous pregnancy leave entitlements in the nation, it may be becoming more generous. One of the major proposed changes to the law is the expansion of the term "affected by pregnancy" to encompass not just medical conditions related to a pregnancy, but to also include "physical and mental conditions related to pregnancy or childbirth." This would include post-partum depression or even just stress related to having a child. As well, an employee who suffers mental anguish due to giving her baby up for adoption may be entitled to protections since such anguish would be both related to childbirth and a mental condition.

NEWS RULINGS VERDICTS

SPECIAL REPORT

Top Women Lawyers

Our annual list of the Top Women lawyers in the state.



Wednesday, May 11, 2011

Criminal

Prosecutors Win Landmark FCPA Case

A federal jury on Tuesday returned guilty verdicts on all counts against all four defendants in a major foreign bribery case against a Southern California company and two of its executives.

Health Care & Hospital Law

Quest Reaches Record Settlement

Quest Diagnostics Inc., the state's largest diagnostic testing laboratory, has agreed to pay \$241 million to settle claims it defrauded the state by inflating bills for Medi-Cal recipients.

Top Women Lawyers

Top Women Lawyers

Our annual list of the Top Women lawyers in the state.

Susan H. Mac Cormac

Morrison & Foerster LLP Location: San Francisco

Practice type: Corporate Practice specialty:

Cleantech, emerging companies and venture capital

Kristin L. Myles

Munger, Tolles & Olson LLP Location: San Francisco

Practice type: Litigation Practice

specialty: Complex business

Family

Litigating With Paper Clips and Rubber Bands

The greatest area of unmet legal need is found in family law, where most of the litigants are women.

By Judith R. Forman and Terry A. Steen of Harriett Buhai Center for Family Law.

Obituaries

Benjamin Travis

1932-2011

Labor/Employment

Pregnancy Disability Rights to Become More Generous?

Proposed regulations would provide more time off for pregnant employees. By Meg Thering and Betsy Johnson of Epstein, Becker & Green PC.

Judges and Judiciary

Chen Confirmed for District Court Seat

The Senate confirmed U.S. Magistrate Judge

Edward M. Chen to be a district court judge in San Francisco on Tuesday, more than 21 months after

the White House first announced his nomination.

Tax

Federal Government Targets Gift Tax

Evaders