

Women's Economic Security Act Signed Into Law

On Mother's Day, May 11, 2014, Governor Dayton signed the Women's Economic Security Act ("WESA") into law. Although several provisions of WESA apply to both men and women, the majority of the law is to create or expand governmental protections for women in the workplace.

WESA provides new wage disclosure protection to both men and women by giving employees the right to discuss their wages and prohibiting employers from taking adverse action against employees for discussing their or other employees' wages, so long as such wages have been disclosed voluntarily. Employers are required to provide their employees with written notice of their rights and remedies under this provision of the law, including the right to seek civil damages for wrongful termination. This provision became effective July 1, 2014.

WESA amends the Minnesota Human Rights Act by prohibiting employment discrimination on the basis of "familial status." Familial status is defined as "the condition of one or more minors being domiciled with (1) their parent or parents or the minor's legal guardian or (2) the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. This provision became effective May 12, 2014.

WESA provides new requirements for pregnancy accommodations for employees who have worked 12 consecutive months and an average of half a full-time schedule. This provision applies to employers with 21 or more employees at a site. The employer must provide reasonable accommodations, including more frequent restroom, food, and water breaks, without proof of medical necessity, unless such a request would impose an undue hardship on the employer's business. An employer is also prohibited from retaliating against the employee for requesting or obtaining such an accommodation. This provision became effective July 1, 2014.

Under WESA, the Minnesota Parenting Leave statute is amended to, among other things, expand the amount of unpaid parenting leave for the birth or adoption of a child from 6 to 12 weeks, change the permissible start date for such leave from within 6 weeks after birth or adoption to within 12 months after birth or adoption, permit qualifying female employees to take unpaid parenting leave for prenatal care or incapacity due to pregnancy, and permit employers to require a qualifying employee to provide reasonable notice of the date and estimated duration of such leave. This provision became effective July 1, 2014.

Employees will now be eligible for unemployment benefits if they quit due to sexual assault or stalking of themselves or an immediate family member or if they engage in conduct that may otherwise be considered misconduct if the conduct was due to being the victim of sexual assault or stalking or an immediate family member's being the victim of sexual assault or stalking. This provision becomes effective October 5, 2014.

WESA amends the Parenting Leave statute to include permitted absences due to illness of the employee's mother-in-law, father-in-law, or grandchild. Sick leave may also be used for "safety leave," which is leave for the purposes of providing or receiving assistance due to sexual assault, domestic abuse, or stalking. Furthermore, there is no limit to an employee's use of paid time off due to the illness or injury of a minor child. An employer is prohibited from retaliating against an employee for utilizing leave as provided under the statute. This provision becomes effective August 1, 2014.

WESA also expands the law relating to providing mothers with a private space to express milk. The space provided should not be a bathroom, should be shielded from view and free from intrusion, and should include access to an electrical outlet. Employers are prohibited from retaliating against women for exercising their rights under this provision. The Minnesota Department of Labor is authorized to receive and investigate complaints, and employees are permitted to bring a civil action against an employer for any violation. This provision became effective July 1, 2014.

Finally, WESA also prohibits the State of Minnesota and its agencies from entering into any contract or agreement for goods or services in excess of \$500,000 with a business that has 40 or more full-time employees in Minnesota unless the business has an equal pay certificate obtained from the Commissioner of Human Rights or has certified that it is exempt. The business is also required to identify and describe the approach that it uses to set compensation and benefits. This provision becomes effective August 1, 2014.