

New Federal Rights for Nursing Mothers in the Workplace

For more information regarding this or any other employment-related issue, please contact your Vorys attorney or a member of the Vorys Labor and Employment Group by calling 614.464.6400.

The recent Health Care Reform legislation creates new federal rights for nursing mothers in the workplace and new responsibilities for employers.

Section 4207 of the Patient Protection and Affordable Care Act amends Section 7 of the Fair Labor Standards Act to require employers with 50 or more employees to provide “a reasonable break time” for an employee to express breast milk for up to one year after a child’s birth. Employers are further required to provide “a place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public” to express breast milk.

Employers, however, are not required to compensate employees for this break time.

Employers with less than 50 employees are not required to comply with

the provision, if complying would impose “undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature or structure of the employer’s business.”

This new federal requirement does not preempt state laws if they provide greater protections. Several states already provide rights to nursing mothers, and several other states have pending legislation that would do so, including Ohio.

The United States Department of Labor is expected to promulgate regulations that implement the new federal law (*e.g.*, clarify what is meant by “reasonable break time” and confirm the mandate’s effective date). Though the USDOL may take several months to issue guidance, proactive employers should be taking steps now to comply with the new mandate for nursing mothers.

This client alert is for general information purposes and should not be regarded as legal advice.