

New 2016 Employer Laws



Background

Several legislators prioritized bills in 2016 that increased regulations on employers in order to protect employees. Most proposals failed, but two bills create new requirements for employers: [House Bill 16-1432 \(HB 1432\)](#) which allows employees limited access to their personnel records, and [House Bill 16-1438 \(HB 1438\)](#), which aligns state and federal laws providing disability protections to pregnant employees. These two bills, which CHA closely monitored throughout the legislative session, were heavily negotiated between the business community and proponents.

HB 1432: Personnel Files Employee Inspection Rights

HB 1432 requires that a private sector employer permit a requesting current or former employee to inspect and obtain a copy of his or her personnel file. The bill's sponsors hope the new law will foster an environment of open communication between employers and employees regarding the employment status of employees and deter lawsuits against employers.

What You Need to Know

Under the law, employers must comply with the following requirements:

- Reviews are to occur at the employer's office at a time convenient to both parties;
- A former employee may make one inspection of his or her personnel file after termination of employment;
- Employers may restrict access to files only in the presence of a person responsible for managing personnel data; and
- Employers may require that employees pay the reasonable costs for any duplication of documents.

Employers are not required to create, maintain or retain a personnel file for a current or former employee, nor are employers required to retain any documents that are or were in a personnel file for a specific period of time. The law also does not create or authorize a private cause of action and does not apply to public employers covered by the Colorado Open Records Act.

continued

Additional Resources

- [HB 1432 Fiscal Note](#)
- HB 1432 takes effect on Jan. 1, 2017.

HB 1438: Employer Accommodation Related to Pregnancy

HB 1438 establishes new requirements for employers when an employee or applicant request reasonable accommodations related to pregnancy or physical recovery from childbirth. The bill sponsors felt that current Colorado laws were inadequate to protect pregnant women from being terminated from employment when they needed reasonable accommodation in order to stay employed. In the past three years, the Colorado Civil Rights Division has received an annual average of 32 complaints of employment discrimination related to pregnancy or childbirth. It is the intent of this law to combat pregnancy discrimination and ensure full and equal protection for women in the labor force.

What You Need to Know

Under the law, employers must provide reasonable accommodations to an applicant for employment or to an employee, if requested, unless the accommodations place an undue hardship on the employer's business. Reasonable accommodations may include:

- More frequent or longer break periods;
- More frequent bathroom, food, or water breaks;
- Acquisition or modification of equipment or seating;
- Limitations on lifting;
- Temporary transfer to a less strenuous or hazardous position or light duty, if available;
- Assistance with manual labor; or
- Modified work schedules.

Lastly, the law specifies that a court must not award punitive damages in a civil action involving a claim of failure to make reasonable accommodations for conditions related to pregnancy or childbirth if the defendant demonstrated good faith efforts to comply with the requirement.

Hospitals Are Required to Take Specific Action

Within 120 days of the bill's effective date, employers must provide written notice of the right to be free from discriminatory or unfair employment practices related to these requirements to new and existing employees, and they must post this notice in a conspicuous place. With the exception of posting the notice, any violation of these requirements constitutes a discriminatory or unfair employment practice.

Additional Resources

- [HB 1438 Fiscal Note](#)
- HB 1438 took effect on Aug. 10, 2016.

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