

Bugbee & Conkle, LLP

THE EMPLOYER — ALERT!

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PREGNANCY/MATERNITY LEAVE

In what may prove to be one of its more important decisions affecting employer rights, the Ohio Supreme Court, on Tuesday, June 22, 2010 issued its decision in McFee v. Nursing Care Mgt. of Am., Inc., Opinion No. 2010-Ohio-2744. The McFee decision reverses the long standing position of the Ohio Civil Rights Commission by holding an employer may impose minimum length of service requirements before allowing pregnancy/maternity leave.

The Ohio Civil Rights Commission had interpreted Ohio Law to provide all employees, even those with little or no length of service, with a right to maternity leave, and that a minimum length of service requirement was illegal. In reversing, the Court held Ohio's law simply requires pregnant employees be treated "the same" as other employees, and because the employer had applied its minimum length of service requirement to all employees for all types of leave, there was no violation of Ohio's pregnancy discrimination laws.

For many years the Ohio Civil Rights Commission and the lower courts of Ohio interpreted Ohio law to provide a certain entitlement to pregnant employees for maternity leave and related issues. Those decisions now appear to be in serious doubt. Under McFee, if the employer's policy applies to all employees, and does not single out pregnancy or any related medical conditions, Ohio law is satisfied.

Employers should consider reviewing all aspects of their leave policies, with special consideration given to whether to adopt minimum length of service requirements before an employee becomes eligible for any leave. If you have any questions concerning the McFee decision and its possible impact upon your workplace, contact any member of our Employment Law Group at (419) 244-6788:

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THE EMPLOYER is not intended to provide legal advice, but is intended as a service to the clients of Bugbee & Conkle, LLP and to alert them to recent developments affecting the employment relationship, with a particular emphasis on the perspective of the employer.



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