

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to unlawful employment practices;
3 amending s. 760.02, F.S.; defining terms; amending s.
4 760.10, F.S.; expanding the list of unlawful
5 employment practices to include certain actions
6 against employees and job applicants with medical
7 needs related to pregnancy; requiring employers to
8 provide a written notice of certain rights relating to
9 pregnancy to employees and to post such notice in
10 conspicuous places on the premises; requiring the
11 Florida Commission on Human Relations to develop
12 certain education and outreach programs; providing
13 construction; providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsections (12), (13), and (14) are added to
18 section 760.02, Florida Statutes, to read:

19 760.02 Definitions.—For the purposes of ss. 760.01-760.11
20 and 509.092, the term:

21 (12) "Pregnancy" means pregnancy, childbirth, or related
22 conditions, including, but not limited to, lactation or the
23 expression of breast milk.

24 (13) "Reasonable accommodation" means making reasonable
25 changes in the workplace, including, but not limited to,
26 providing more frequent or longer breaks; assistance with manual
27 labor; temporary job restructuring; temporary modification in
28 work schedules, seating, or equipment; temporary relief from
29 lifting requirements; temporary transfer to less strenuous or

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30 less hazardous work; reasonable time off to recover from
31 childbirth; and reasonable private, non-restroom space for
32 lactation or the expression of breast milk.

33 (14) "Undue hardship" means an accommodation requiring
34 significant difficulty or expense when considered in light of
35 the following factors:

36 (a) The nature, cost, and duration of the accommodation.

37 (b) The overall financial resources of the employer.

38 (c) The overall size of the business of the employer with
39 respect to the number of employees and the number, type, and
40 location of the employer's facilities.

41 (d) The effect on expenses and resources or any other
42 impacts of such accommodation on the employer's operation.

43 Section 2. Present subsections (9) and (10) of section
44 760.10, Florida Statutes, are redesignated as subsections (12)
45 and (13), respectively, and paragraph (c) is added to subsection
46 (1) and new subsections (9), (10), and (11) are added to that
47 section, to read:

48 760.10 Unlawful employment practices.—

49 (1) It is an unlawful employment practice for an employer:

50 (c)1. To fail to make reasonable accommodations, upon
51 request, for an employee with a medical need related to
52 pregnancy, unless the employer can demonstrate that the
53 accommodation would impose an undue hardship on the operation of
54 the employer's business. If an employer's policy requires
55 similar accommodations to be made, or if similar accommodations
56 have been made in the past or are currently being made for other
57 employees for any reason, there is a rebuttable presumption that
58 the accommodation does not impose an undue hardship on the

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59 employer.

60 2. To deny employment opportunities to an otherwise
61 qualified job applicant or employee, if such denial is based on
62 the employer's need to make reasonable accommodations for the
63 applicant or employee because of a medical need related to
64 pregnancy.

65 3. To require an employee to take leave because of a
66 medical need related to pregnancy if another reasonable
67 accommodation can be provided.

68 4. To take adverse action against an employee in the terms,
69 conditions, or privileges of employment for requesting or using
70 a reasonable accommodation. For purposes of this subparagraph,
71 the term "adverse action" includes, but is not limited to,
72 failing to reinstate an employee to her original position, or an
73 equivalent position, with equivalent pay, seniority, and
74 benefits after the need for such accommodation ceases or
75 counting an employee's absences from work due to a medical need
76 related to pregnancy against the employee under the employer's
77 no-fault attendance policy.

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79 This paragraph does not require an employer to create additional
80 employment opportunities that the employer would not otherwise
81 have created or to discharge an employee, transfer an employee
82 who has more seniority, or promote an employee who is not
83 qualified for the position unless the employer has a policy for
84 doing so for other classes of employees who have a right to
85 accommodations.

86 (9) (a) An employer shall provide written notice of the
87 right to be free from discrimination in relation to pregnancy,

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88 including the right to reasonable accommodations, to:

89 1. New employees at the commencement of employment.

90 2. Existing employees no later than November 1, 2021.

91 3. Any employee who notifies an employer of her pregnancy
92 within 10 days after such notification.

93 (b) An employer shall post a written notice in conspicuous
94 places on its premises of the right to be free from
95 discrimination in relation to a medical need related to
96 pregnancy, including the right to reasonable accommodations.

97 (10) The commission shall develop education and outreach
98 programs as necessary to inform employers, employees, and job
99 applicants about their rights and responsibilities under
100 paragraph (1) (c).

101 (11) This section may not be construed to preempt, limit,
102 diminish, or otherwise affect any employer policy or provision
103 or other provision of law relating to sex or pregnancy
104 discrimination or in any way diminish the coverage for pregnancy
105 under any other provision of this chapter.

106 Section 3. This act shall take effect July 1, 2021.