

House Bill 184

By: Representatives Boddie of the 62nd, Alexander of the 66th, Cannon of the 58th, Thomas of the 56th, Bentley of the 139th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
2 relations, so as to enact the Georgia Pregnant Workers Fairness Act; to provide for a short
3 title; to provide for intent; to provide for definitions; to provide for notice of rights; to
4 provide for reasonable accommodations to job applicants and employees for circumstances
5 related to pregnancy, childbirth, or related conditions; to provide for a civil cause of action
6 for unfair employment practices; to require the Department of Labor to develop courses and
7 educate the public on such accommodations; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
12 is amended by adding a new chapter to read as follows:

13 style="text-align:center">"CHAPTER 5A

14 34-5A-1.

15 This chapter shall be known and may be cited as the 'Georgia Pregnant Workers Fairness
16 Act.'

17 34-5A-2.

18 It is the intent of the General Assembly to combat pregnancy discrimination, promote
19 public health, and ensure full and equal participation for women in the labor force by
20 requiring employers to provide reasonable accommodations to job applicants or employees
21 for circumstances related to pregnancy, childbirth, or related conditions. Current
22 workplace laws are inadequate to protect pregnant women from being forced out or fired
23 when they need a simple, reasonable accommodation in order to stay on the job. Many

24 pregnant women are single mothers or the primary breadwinners for their families—if they
25 lose their jobs then the whole family will suffer. This is not an outcome that families can
26 afford in today's difficult economy.

27 34-5A-3.

28 As used in this chapter, the term:

29 (1) 'Employer' means any person or entity that employs one or more employees and shall
30 include the state and its political subdivisions.

31 (2) 'Reasonable accommodations' shall include, but not be limited to, more frequent or
32 longer breaks, time off to recover from childbirth, acquisition or modification of
33 equipment, seating, temporary transfer to a less strenuous or hazardous position, job
34 restructuring, light duty, break time and private nonbathroom space for expressing breast
35 milk, assistance with manual labor, or modified work schedules, provided that:

36 (A) No employer shall be required by this Code section to create additional
37 employment that such employer would not otherwise have created, unless such
38 employer does so or would do so for other classes of employees who need
39 accommodation; and

40 (B) The employer shall not be required to discharge any employee, transfer any
41 employee with more seniority, or promote any employee who is not qualified to
42 perform the job, unless such employer does so or would do so to accommodate other
43 classes of employees who need it.

44 (3) 'Related conditions' includes, but is not limited to, lactation or the need to express
45 breast milk for a nursing child.

46 (4) 'Undue hardship' means an action requiring significant difficulty or expense, when
47 considered in light of the factors set forth in Code Section 34-5A-5.

48 34-5A-4.

49 (a) It shall constitute an unfair employment practice for an employer, unless such employer
50 can demonstrate that an undue hardship on such employer's program, enterprise, or
51 business would result, to:

52 (1) Not make reasonable accommodations to job applicants or employees for
53 circumstances related to pregnancy, childbirth, or related conditions, if the job applicant
54 or employee so requests;

55 (2) Take adverse action against an employee who requests or uses an accommodation,
56 including, but not limited to, failing to reinstate such employee to such employee's
57 original job or to an equivalent position with equivalent pay and accumulated seniority,

58 retirement, fringe benefits, and other applicable service credits when such employee's
 59 need for reasonable accommodations ceases;

60 (3) Deny employment opportunities to an otherwise qualified job applicant or employee,
 61 if such denial is based on the need of the employer to make reasonable accommodations
 62 to such job applicant or employee for circumstances related to pregnancy, childbirth, or
 63 related conditions;

64 (4) Require a job applicant or employee affected by pregnancy, childbirth, or related
 65 conditions to accept an accommodation that such job applicant or employee chooses not
 66 to accept; or

67 (5) Require an employee to take leave if another reasonable accommodation can be
 68 provided to such employee for circumstances related to pregnancy, childbirth, or related
 69 conditions.

70 (b) The employer shall in good faith engage in a timely and interactive process with the
 71 job applicant or employee to determine effective reasonable accommodations.

72 (c)(1) An employer shall provide written notice of the right to be free from
 73 discrimination in relation to pregnancy, childbirth, and related conditions, including the
 74 right to reasonable accommodations for circumstances related to pregnancy, childbirth,
 75 or related conditions, to:

76 (A) New employees at the commencement of employment;

77 (B) Existing employees within 120 days after the effective date of this chapter; and

78 (C) Any employee who notifies such employer of her pregnancy within ten days of
 79 such notification.

80 (2) Such notice shall be conspicuously posted at an employer's place of business in an
 81 area accessible to employees and shall be available in English and other languages
 82 commonly spoken in such employer's place of business.

83 34-5A-5.

84 (a) The employer shall have the burden of proving undue hardship. In making a
 85 determination of undue hardship, the factors that may be considered include, but shall not
 86 be limited to:

87 (1) The nature and cost of the accommodation;

88 (2) The overall financial resources of the employer, the overall size of the business of the
 89 employer with respect to the number of employees, and the number, type, and location
 90 of its facilities; and

91 (3) The effect on expenses and resources or the impact otherwise of such accommodation
 92 upon the operation of the employer.

93 (b) The fact that the employer provides or would be required to provide a similar
94 accommodation to other classes of employees who need it shall create a rebuttable
95 presumption that the accommodation does not impose an undue hardship on the employer.

96 34-5A-6.

97 (a) Any individual who is aggrieved by an unfair employment practice against such
98 individual in violation of this chapter may institute a civil action against the persons
99 engaged in such prohibited conduct. Such action may be maintained in any court of
100 competent jurisdiction and shall be commenced no later than one year after the alleged
101 prohibited conduct occurred.

102 (b) The court may grant as relief, as it deems appropriate, any permanent or temporary
103 injunction, temporary restraining order, or other order, including, but not limited to, the
104 hiring or reinstatement of the plaintiff to such individual's original position or an equivalent
105 position. The court may award to the plaintiff back pay. The court may award court costs
106 and reasonable attorneys' fees to the prevailing party.

107 34-5A-7.

108 The Department of Labor shall develop courses of instruction and conduct ongoing public
109 education efforts as necessary to inform employers, employees, employment agencies, and
110 job applicants about their rights and responsibilities under this chapter.

111 34-5A-8.

112 This chapter shall not be construed to preempt, limit, diminish, or otherwise affect any
113 other provision of law relating to sex discrimination or pregnancy or in any way to
114 diminish the coverage for pregnancy, childbirth, or a condition related to pregnancy or
115 childbirth under any other provision of this title."

116 **SECTION 2.**

117 All laws and parts of laws in conflict with this Act are repealed.