

House Bill 972

By: Representatives Bennett of the 80<sup>th</sup>, Hugley of the 136<sup>th</sup>, Evans of the 42<sup>nd</sup>, Gordon of the 163<sup>rd</sup>, Abrams of the 89<sup>th</sup>, 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 **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 "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

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

34-5A-3.

As used in this chapter, the term:

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

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

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

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

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

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

34-5A-4.

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

(1) Not make reasonable accommodations to job applicants or employees for circumstances related to pregnancy, childbirth, or related conditions, including, but not limited to, the need to express breast milk for a nursing child, if the job applicant or employee so requests;

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

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

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

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

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

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

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

(A) New employees at the commencement of employment;

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

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

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

34-5A-5.

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

(1) The nature and cost of the accommodation;

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

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

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

34-5A-6.

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

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

34-5A-7.

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

34-5A-8.

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

**SECTION 2.**

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