

The Senate Committee on the Judiciary offered the following substitute to SB 283:

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 "Pregnancy Protection Act"; to require certain employers to
3 provide for reasonable accommodations to an employee or a pregnant job applicant for
4 circumstances related to pregnancy, childbirth, and related conditions; to provide for
5 definitions; to provide for notice of rights; to provide for burden of proving undue hardship;
6 to provide for civil causes of action; to provide for remedies for such causes of action; to
7 provide for an affirmative defense to pregnancy discrimination; to provide for construction;
8 to provide for rules and regulations; to provide for related matters; to provide for an effective
9 date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

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

14

"CHAPTER 5B15 34-5B-1.16 This chapter shall be known and may be cited as the 'Pregnancy Protection Act.'17 34-5B-2.18 As used in this chapter, the term:19 (1) 'Claimant' means an employee or pregnant job applicant who brings a claim against
20 an employer under this chapter.21 (2) 'Employee' means an individual who works for or who performs services, as provided
22 for in subsection (f) of Code Section 34-8-35, for salary, wages, or other remuneration
23 for an employer.24 (3) 'Employer' means any individual, corporation, limited liability company, limited
25 liability partnership, partnership, sole proprietorship, nongovernmental or
26 non-quasi-governmental entity, or other entity, that employs ten or more
27 employees at the time of the request for reasonable accommodations or an act in violation
28 of this chapter.29 (4) 'Pregnancy' means health needs arising from pregnancy, childbirth, or related
30 conditions, including, but not limited to, lactation or the expression of breast milk.31 (5) 'Reasonable accommodations' means reasonable changes or modifications in the
32 work environment or the normal course of business for an individual with known
33 limitations related to her own pregnancy. Such term shall include but not be limited to
34 more frequent or longer breaks, time off to recover from childbirth, time off for medical
35 appointments, absences related to medical needs for pregnancy, acquisition or
36 modification of equipment, seating, temporary transfer to a less strenuous or hazardous
37 position, job restructuring, light duty, break time and private nonbathroom space for

38 expressing breast milk, assistance with manual labor, or modified work schedules. Such
39 term shall not include any activity that is not authorized under the laws of this state.

40 (6) 'Undue hardship' means an action requiring significant difficulty or expense, when
41 considered in light of the factors set forth in Code Section 34-5B-4. An undue hardship
42 shall be an affirmative defense to a claim for pregnancy discrimination.

43 34-5B-3.

44 (a) Unless an employer can demonstrate an undue hardship on its enterprise or business
45 as provided in Code Section 34-5B-4, a claimant shall have a cause of action for pregnancy
46 discrimination when an employer:

47 (1) Fails or refuses to make reasonable accommodations to such claimant for
48 circumstances related to her own pregnancy, if such claimant so requests;

49 (2) Takes adverse action against such claimant who requests or uses reasonable
50 accommodations or because of her own pregnancy;

51 (3) Forces such claimant to resign because of the denial of reasonable accommodations;

52 (4) Denies employment opportunities to such claimant, if such denial is based on the
53 need of the employer to make reasonable accommodations to such claimant for
54 circumstances related to her own pregnancy;

55 (5) Requires such claimant affected by her own pregnancy to accept reasonable
56 accommodations that such claimant chooses not to accept;

57 (6) Counts an absence related to her own pregnancy against an employee under an
58 attendance policy;

59 (7) Fails to reinstate an employee to such employee's original job or to an equivalent
60 position with equivalent pay and accumulated seniority, retirement, fringe benefits, and
61 other applicable service credits when such employee's need for reasonable
62 accommodations ceases; or

63 (8) Fails to engage in good faith in a timely and interactive process with such claimant
64 to determine effective reasonable accommodations.

65 (b)(1) An employer shall provide written notice of the right to be free from
66 discrimination in relation to pregnancy to:

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

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

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

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

74 (c) An employee shall inform the employer when reasonable accommodations are no
75 longer required.

76 (d) The Commissioner shall have the authority to issue such rules and regulations
77 appropriate to the carrying out of this chapter.

78 34-5B-4.

79 An employer shall have the burden of proving undue hardship would result from making
80 reasonable accommodations in relation to pregnancy. In making a determination of undue
81 hardship, the factors that may be considered include, but shall not be limited to:

82 (1) The nature, cost, and duration of the reasonable accommodations;

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

86 (3) The effect on expenses and resources or the impact otherwise of such reasonable
87 accommodations upon the operation of the employer's enterprise or business.

88 34-5B-5.

89 A claimant shall have a cause of action for retaliation when an employer retaliates against
90 a claimant because such claimant has:

91 (1) Requested or used reasonable accommodations;

92 (2) Made a report or a charge or filed any complaint related to pregnancy discrimination
93 under this chapter;

94 (3) Instituted or caused to be instituted or assisted or participated in any manner in any
95 investigation, proceeding, hearing, or action related to pregnancy discrimination under
96 this chapter; or

97 (4) Provided information or testified or is known by the employer to be planning to
98 testify in any manner in any investigation, proceeding, hearing, or action related to
99 pregnancy discrimination under this chapter.

100 34-5B-6.

101 A claimant's action for pregnancy discrimination as provided for in Code Section 34-5B-3
102 shall be commenced within two years from the date of the most recent incident in violation
103 of such Code section, and a claimant's action for retaliation as provided for in Code Section
104 34-5B-5 shall be commenced within two years from the date of the most recent incident
105 in violation of such Code section.

106 34-5B-7.

107 (a) The relief a jury or court may order for a prevailing claimant in a cause of action for
108 pregnancy discrimination or retaliation under this chapter shall include, but not be limited
109 to, compensation for lost wages, front pay or reinstatement, benefits, other remuneration,
110 compensatory damages, punitive damages, reasonable attorney's fees, court costs, and other
111 related expenses. A court may grant as relief any permanent or temporary injunction,
112 temporary restraining order, or other order, including an order enjoining the defendant from

113 engaging in such practice, or ordering continuing prospective remedial action as may be
114 appropriate.

115 (b) The provisions of this chapter shall be construed as being in addition to, and in no way
116 to deny, alter, or amend, any other civil or criminal rights or remedies in law or in equity,
117 or notice requirements provided under any other provision of law.

118 34-5B-8.

119 This chapter shall not be construed to preempt, limit, diminish, or otherwise affect any
120 other provision of law relating to workplace harassment, sex discrimination, or pregnancy
121 discrimination or in any way to diminish protections for pregnancy under any other
122 provision of this title."

123 **SECTION 2.**

124 This Act shall become effective upon its approval by the Governor or upon its becoming law
125 without such approval.

126 **SECTION 3.**

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