

SENATE BILL No. 425

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-9-12.

Synopsis: Pregnancy accommodation. Requires an employer to grant an employee's request for a reasonable accommodation for a known limitation related to the employee's pregnancy absent undue hardship on the employer's business. Provides that an employer may not require an employee to take leave under a leave law or policy adopted by the employer if another reasonable accommodation can be provided for known limitations arising from pregnancy, childbirth, or related medical conditions. Establishes a civil action for a violation of these provisions.

Effective: Upon passage.

Pol Jr., Bohacek

January 19, 2023, read first time and referred to Committee on Pensions and Labor.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE BILL No. 425

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-9-12-2.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: **Sec. 2.5. As used in this chapter, "reasonable**
- 4 **accommodation" includes:**
- 5 (1) **making existing facilities used by employees readily**
- 6 **accessible and usable;**
- 7 (2) **providing more frequent, longer, or flexible breaks;**
- 8 (3) **providing a private place, other than a restroom, for the**
- 9 **purpose of expressing breast milk;**
- 10 (4) **providing time off to recover from childbirth;**
- 11 (5) **modifying food or drink policy;**
- 12 (6) **providing modified seating or allowing the employee to sit**
- 13 **more frequently if the job requires standing;**
- 14 (7) **providing assistance with manual labor or lifting;**
- 15 (8) **authorizing a temporary transfer to a vacant position;**
- 16 (9) **providing job restructuring or light duty;**
- 17 (10) **acquiring or modifying of equipment, devices, or an**



1 **employee's work station;**
 2 **(11) modifying work schedules; and**
 3 **(12) allowing flexible schedules for prenatal and postnatal**
 4 **appointments.**

5 SECTION 2. IC 22-9-12-2.7 IS ADDED TO THE INDIANA CODE
 6 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 7 UPON PASSAGE]: **Sec. 2.7. As used in this chapter, "undue**
 8 **hardship" means an action requiring significant difficulty or**
 9 **expense.**

10 SECTION 3. IC 22-9-12-3, AS ADDED BY P.L.87-2021,
 11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 UPON PASSAGE]: **Sec. 3. (a) An employee may request in writing, an**
 13 **a reasonable accommodation relating to for a known limitation**
 14 **related to** the employee's pregnancy from her employer.

15 (b) An employer must respond to an employee's request under
 16 subsection (a) within a reasonable time, **and an employer must grant**
 17 **the employee's request absent undue hardship on the employer's**
 18 **business.**

19 (c) Notwithstanding subsection (b), a request for an accommodation
 20 under subsection (a) does not:

21 (1) require an employer to provide an accommodation for an
 22 employee's pregnancy; or

23 (2) impose a duty or obligation upon the employer to provide an
 24 accommodation or an exception to the employer's policies;

25 unless existing federal or state laws require that an accommodation
 26 must be made.

27 SECTION 4. IC 22-9-12-4, AS ADDED BY P.L.87-2021,
 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 UPON PASSAGE]: **Sec. 4. (a) An employer may not:**

30 (1) discipline;

31 (2) terminate; or

32 (3) retaliate against;

33 an employee because the employee has requested or used an **in the**
 34 **terms, conditions, or privileges of employment for requesting or**
 35 **using a reasonable** accommodation for the employee's known
 36 **limitations related to pregnancy, childbirth, or related medical**
 37 **conditions, including counting an absence related to pregnancy**
 38 **under no fault attendance policies.**

39 (b) An employer may not require an employee to take leave
 40 under a leave law or policy adopted by the employer if another
 41 reasonable accommodation can be provided for known limitations
 42 arising from pregnancy, childbirth, or related medical conditions.



1 (b) The following actions may not be considered to be disciplinary
2 or retaliatory under subsection (a):

3 (1) An employer's attempt to accommodate an employee's request
4 for accommodation under section 3(a) of this chapter.

5 (2) An employer's decision not to accommodate an employee's
6 request for accommodation under section 3(a) of this chapter.

7 SECTION 5. IC 22-9-12-4.5 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: **Sec. 4.5. (a) An employer shall provide written
10 notice to:**

11 (1) a new employee at the commencement of employment; and

12 (2) an existing employee before December 1, 2023;

13 that the employee has a right to be free from discrimination based
14 on the employee's pregnancy, childbirth, or related medical
15 conditions and that the employer must make reasonable
16 accommodations for the employee's pregnancy, childbirth, or
17 related medical conditions unless doing so would impose an undue
18 hardship on the employer.

19 (b) Any person adversely affected by an act in violation of this
20 chapter may bring a civil action. A court may award any or all of
21 the following to a person who prevails in an action under this
22 subsection regardless of whether the person has exhausted any
23 available administrative remedies:

24 (1) Back pay.

25 (2) Compensatory and punitive damages.

26 (3) Prejudgment interest.

27 (4) Reasonable attorney's fees.

28 (5) Any legal or equitable relief that will effectuate the
29 purpose of this chapter.

30 SECTION 6. An emergency is declared for this act.

