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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 716 Session of  
2021

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INTRODUCED BY CAPPELLETTI, FONTANA, HUGHES, SANTARSIERO, MUTH,  
SCHWANK, COMMITTA, COSTA, STREET, COLLETT AND KANE,  
MAY 25, 2021

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REFERRED TO LABOR AND INDUSTRY, MAY 25, 2021

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AN ACT

1 Promoting family health and economic security by eliminating  
2 discrimination and ensuring reasonable workplace  
3 accommodations for workers whose ability to perform the  
4 functions of a job are limited by pregnancy, childbirth or a  
5 related medical condition.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Pregnant  
10 Workers Fairness Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Commission." The Pennsylvania Human Relations Commission.

16 "Covered entity." The Commonwealth, a political subdivision  
17 or board, department or commission of the Commonwealth, a school  
18 district and a person employing one or more persons within this  
19 Commonwealth.

1 "Person." One or more individuals, partnerships,  
2 associations, organizations, corporations, legal  
3 representatives, trustees in bankruptcy or receivers. The term  
4 includes any owner, lessor, assignor, builder, manager, broker,  
5 salesman, agent, employee, independent contractor, lending  
6 institution and the Commonwealth of Pennsylvania and all  
7 political subdivisions, authorities, boards and commissions  
8 thereof.

9 "Reasonable accommodation." A modification to the work  
10 environment to enable an employee to continue working despite  
11 limitations due to pregnancy, childbirth or related medical  
12 conditions that do not present an undue hardship on the  
13 employer. A reasonable accommodation may include:

14 (1) Providing a chair, assistance with heavy lifting,  
15 access to drinking water or uncompensated break time.

16 (2) Temporary job restructuring, part-time or modified  
17 work schedules, reassignment to a vacant position,  
18 acquisition or modification of equipment or devices,  
19 appropriate adjustment or modifications of examinations and  
20 other similar accommodations.

21 Section 3. Reasonable accommodations related to pregnancy,  
22 childbirth or related medical conditions.

23 (a) General rule.--It shall be an unlawful employment  
24 practice for a covered entity to:

25 (1) Refuse an employee's or prospective employee's  
26 request for reasonable accommodations for limitations related  
27 to pregnancy, childbirth or related medical conditions,  
28 unless the covered entity can demonstrate that the  
29 accommodation would impose an undue hardship on the covered  
30 entity's operations.

1           (2) Deny employment opportunities to an employee or  
2 prospective employee if the denial is based on the employee's  
3 or prospective employee's need for an accommodation related  
4 to pregnancy, childbirth or related medical conditions.

5           (3) Require an employee or prospective employee to  
6 accept an accommodation that changes the terms, privileges or  
7 conditions of their employment, including reductions in pay  
8 or hours or changes in shifts or location, unless requested  
9 or agreed to by the employee or prospective employee.

10          (4) Require an employee to take leave under any policy  
11 of the covered entity or law if other reasonable  
12 accommodations can be provided to address the employee's  
13 limitations related to pregnancy, childbirth or related  
14 medical conditions that would enable the employee to continue  
15 working.

16          (b) Undue hardship.--The covered entity shall have the  
17 burden of proving undue hardship under subsection (a). The  
18 factors to be considered in determining whether a requested  
19 accommodation presents an undue hardship to the covered entity  
20 include:

21           (1) The overall size and nature of the covered entity,  
22 its structure, the composition of its workforce and the  
23 number and type of facilities.

24           (2) The extent, nature and cost of the requested  
25 reasonable accommodation.

26          (c) Nondiscrimination.--No person may discriminate or  
27 retaliate against an individual because the individual has  
28 opposed any act or practice made unlawful by this act or because  
29 the individual made a charge, testified, assisted or  
30 participated in any manner in an investigation, proceeding or

1 hearing under this act.

2 Section 4. Remedies and enforcement.

3 A person claiming discrimination in violation of section 3  
4 may take either of the following actions:

5 (1) If otherwise permitted by the laws or rules of this  
6 Commonwealth, bring an action for preliminary injunctive  
7 relief in an appropriate court. Any order or relief shall be  
8 granted in accordance with Pa.R.C.P. No. 1531 (relating to  
9 Special Relief. Injunctions.).

10 (2) Make, sign and file with the commission a verified  
11 complaint in writing pursuant to the procedures specified in  
12 the act of October 27, 1955 (P.L.744, No.222), known as the  
13 Pennsylvania Human Relations Act, with all appeals,  
14 enforcement mechanisms, judicial review and remedies,  
15 including damages and attorney fees, available under that  
16 act.

17 Section 5. Notice.

18 The commission shall develop and publish a written notice  
19 regarding employees' rights under this act. Employers shall  
20 display the notice in plain view in the workplace.

21 Section 6. Rulemaking.

22 Not later than two years after the effective date of this  
23 section, the commission shall issue regulations in an accessible  
24 format to effectuate the policies and provisions of this act.

25 Section 7. Effective date.

26 This act shall take effect in 60 days.