

House Bill 577

By: Representatives Cannon of the 58th, Shannon of the 84th, Thomas of the 39th, Robichaux of the 48th, Boddie of the 62nd, 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 "Working for Two Act"; to require certain accommodations in
3 the workplace for pregnancy, childbirth, and related conditions; to provide for the specific
4 powers and duties of the Commissioner of Labor related to such act; to provide for a short
5 title; to provide for definitions; to provide for notice of rights; to provide for reasonable
6 accommodations to job applicants and employees for circumstances related to pregnancy;
7 to impose civil penalties for certain violations; to provide for the Commissioner of Labor to
8 promulgate certain rules and regulations; to provide for construction; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
13 is amended in subsection (a) of Code Section 34-2-6, relating to specific powers and duties
14 of the Commissioner of Labor, by revising paragraph (5) of and by adding a new paragraph
15 to read as follows:

16 "(3.1) To make investigations, collect and compile statistical information, and report
17 upon the conditions and matters relating to the enforcement and effect of Chapter 5A of
18 this title and of the rules issued thereunder and to receive and resolve complaints related
19 to such chapter in accordance with the rules and regulations issued thereunder;"

20 "(5) To do all in his power to promote the voluntary arbitration, mediation, and
21 conciliation of disputes between employers and employees and to avoid strikes,
22 picketing, lockouts, boycotts, blacklisting, discriminations, and legal proceedings in
23 matters of employment. In pursuance of this duty, the Commissioner may appoint
24 temporary boards of arbitration, provide necessary expenses of such boards, order
25 reasonable compensation not exceeding \$15.00 per day for each member engaged in such
26 arbitration, prescribe rules for such arbitration boards, conduct investigations and

27 hearings, publish in print or electronically reports and advertisements, and do all things
 28 convenient and necessary to accomplish the purpose of this chapter and Chapter 5A of
 29 this title. The Commissioner may designate a mediator and may, from time to time, detail
 30 employees or persons not in the department to act as his assistants for the purpose of
 31 executing such provisions. Employees of the Department of Labor shall act on temporary
 32 boards without extra compensation. Nothing in this Code section or in this chapter shall
 33 be construed to prohibit or limit in any way employees' rights to bargain collectively;"

34 **SECTION 2.**

35 Said title is further amended by adding a new chapter to read as follows:

36 "CHAPTER 5A

37 34-5A-1.

38 This chapter shall be known and may be cited as the 'Working for Two Act.'

39 34-5A-2.

40 As used in this chapter, the term:

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

43 (2) 'Pregnancy' means medical needs arising from pregnancy, childbirth, or related
 44 conditions, including, but not limited to, lactation.

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

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

52 34-5A-3.

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

56 (1) Fail or refuse to make a reasonable accommodation to a job applicant or employee
 57 for circumstances related to pregnancy, if such job applicant or employee so requests;

- 58 (2) Take adverse action against a job applicant or an employee who requests or uses an
 59 accommodation;
- 60 (3) Deny employment opportunities to a job applicant or employee, if such denial is
 61 based on the need of the employer to make reasonable accommodations to such job
 62 applicant or employee for circumstances related to pregnancy;
- 63 (4) Require a job applicant or employee affected by pregnancy to accept an
 64 accommodation that such job applicant or employee chooses not to accept;
- 65 (5) Require an employee to take leave if another reasonable accommodation can be
 66 provided to such employee for circumstances related to pregnancy;
- 67 (6) Count an absence related to pregnancy against an employee under a no fault
 68 attendance policy; or
- 69 (7) Fail to reinstate such employee to such employee's original job or to an equivalent
 70 position with equivalent pay and accumulated seniority, retirement, fringe benefits, and
 71 other applicable service credits when such employee's need for reasonable
 72 accommodations ceases.
- 73 (b) The employer shall in good faith engage in a timely and interactive process with the
 74 job applicant or employee to determine effective reasonable accommodations.
- 75 (c)(1) An employer shall provide written notice of the right to be free from
 76 discrimination in relation to pregnancy to:
- 77 (A) New employees at the commencement of employment;
 78 (B) Existing employees within 120 days after the effective date of this chapter; and
 79 (C) Any employee who notifies such employer of her pregnancy within ten days of
 80 such notification.
- 81 (2) Such notice shall be conspicuously posted at an employer's place of business in an
 82 area accessible to employees and shall be available in English and other languages
 83 commonly spoken in such employer's place of business.

84 34-5A-4.

85 The employer shall have the burden of proving undue hardship. In making a determination
 86 of undue hardship, the factors that may be considered include, but shall not 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 34-5A-5.

94 The Commissioner of Labor or an authorized representative shall have the power to assess
95 a civil penalty of not more than \$1,000.00 for each act of misconduct constituting a
96 violation of this chapter; provided, however, that a fine of not more than \$5,000.00 may
97 be imposed for each act of willful misconduct constituting a violation of this chapter.

98 34-5A-6.

99 The Commissioner of Labor shall promulgate rules and regulations as are necessary to
100 implement and effectuate the provisions of this chapter.

101 34-5A-7.

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

105 **SECTION 3.**

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