

House Bill 556

By: Representatives Smith of the 18th, Daniel of the 117th, Hilton of the 48th, Greene of the 154th, Miller 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 "Pregnancy Protection Act"; to provide for reasonable
3 accommodations to job applicants and employees for circumstances related to pregnancy,
4 childbirth, and related conditions; to provide for definitions; to provide for notice of rights;
5 to provide for burden of proving undue hardship; to provide for a civil cause of action; to
6 provide for construction; to provide for a short title; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

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12 "CHAPTER 5B

13 34-5B-1.

14 This chapter shall be known and may be cited as the 'Pregnancy Protection Act.'

15 34-5B-2.

16 As used in this chapter, the term:

17 (1) 'Applicant' means an individual who seeks employment with the employer.

18 (2) 'Employee' means an individual who works for or provides services to an employer.

19 (3) 'Claimant' means an applicant or employee who brings a claim against an employer
20 under this chapter.

21 (4) 'Employer' means any of the following nongovernmental or non-quasi-governmental
22 entities, or their agents, which employ ten or more individuals who work or perform
23 services within this state:

24 (A) A nongovernmental organization; or

25 (B) A corporation, limited liability company, limited liability partnership, partnership,
26 sole proprietorship, or association, whether domestic or foreign, or the successor
27 thereof.

28 (5) 'Pregnancy' means health needs arising from pregnancy, childbirth, or related
29 conditions, including, but not limited to, lactation.

30 (6) 'Reasonable accommodations' means, but shall not be limited to, more frequent or
31 longer breaks, time off to recover from childbirth, time off for medical appointments,
32 absences related to medical needs for pregnancy, acquisition or modification of
33 equipment, seating, temporary transfer to a less strenuous or hazardous position, job
34 restructuring, light duty, break time and private non-bathroom space for expressing breast
35 milk, assistance with manual labor, or modified work schedules.

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

38 34-5B-3.

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

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

43 (2) Take adverse action against a job applicant or an employee who requests or uses a
44 reasonable accommodation;

45 (3) Force a job applicant or an employee to resign because of denial of a reasonable
46 accommodation;

47 (4) Deny employment opportunities to a job applicant or an employee, if such denial is
48 based on the need of the employer to make reasonable accommodations to such job
49 applicant or employee for circumstances related to pregnancy;

50 (5) Require a job applicant or an employee affected by pregnancy to accept a reasonable
51 accommodation that such job applicant or employee chooses not to accept;

52 (6) Count an absence related to pregnancy against an employee under an attendance
53 policy;

54 (7) Fail to reinstate an employee to such employee's original job or to an equivalent
55 position with equivalent pay and accumulated seniority, retirement, fringe benefits, and
56 other applicable service credits when such employee's need for reasonable
57 accommodations ceases; or

58 (8) Fail to engage in good faith in a timely and interactive process with a job applicant
59 or an employee to determine effective reasonable accommodations.

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

- 62 (A) New employees at the commencement of employment;
63 (B) Existing employees within 120 days after the effective date of this chapter; and
64 (C) Any employee who notifies such employer of her pregnancy, within ten days of
65 such notification.
- 66 (2) Such notice shall be conspicuously posted at an employer's place of business in an
67 area accessible to employees and shall be available in English and other languages
68 commonly spoken in such employer's place of business.

69 34-5B-4.

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

- 72 (1) The nature and cost of the reasonable accommodation;
73 (2) The overall financial resources of the employer, the overall size of the business of the
74 employer with respect to the number of employees, and the number, type, and location
75 of its facilities; and
76 (3) The effect on expenses and resources or the impact otherwise of such reasonable
77 accommodation upon the operation of the employer's enterprise or business.

78 34-5B-5.

79 A claimant's action for pregnancy protection pursuant to the provisions of this chapter shall
80 be commenced within two years from the date of the most recent violation of this chapter.

81 34-5B-6.

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

- 84 (1) Requested or used a reasonable accommodation;

85 (2) Made a report or a charge, or filed any complaint related to pregnancy protection
86 under this chapter;

87 (3) Instituted or caused to be instituted, or assisted or participated in any manner, in any
88 investigation, proceeding, hearing, or action related to pregnancy protection under this
89 chapter; or

90 (4) Provided information, testified, or is known by the employer to be planning to testify
91 in any manner in any investigation, proceeding, hearing, or action related to pregnancy
92 protection under this chapter.

93 34-5B-7.

94 (a) Relief a jury or court may order for a prevailing claimant shall include, but not be
95 limited to, compensation for lost wages, front pay or reinstatement, benefits, other
96 remuneration, compensatory damages, punitive damages, reasonable attorney's fees, court
97 costs, and other related expenses. A court may grant as relief any permanent or temporary
98 injunction, temporary restraining order, or other order, including an order enjoining the
99 defendant from engaging in such practice, or ordering continuing prospective remedial
100 action as may be appropriate.

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

104 34-5B-8.

105 This chapter shall not be construed to preempt, limit, diminish, or otherwise affect any
106 other provision of law relating to workplace harassment, sex discrimination, or pregnancy
107 or in any way to diminish coverage for pregnancy under any other provision of this title."

108

SECTION 2.

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