

1                   A bill to be entitled  
2           An act relating to unlawful discrimination against  
3           pregnant employees; amending s. 760.02, F.S.;  
4           providing definitions; amending s. 760.10, F.S.;  
5           prohibiting certain unlawful employment practices  
6           against specified employees and job applicants;  
7           requiring an employer to provide a written notice of  
8           certain rights to employees and post such notice in  
9           conspicuous places on its premises; requiring the  
10          Florida Commission on Human Relations to develop  
11          certain education and outreach programs; providing  
12          construction; providing an effective date.

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14   Be It Enacted by the Legislature of the State of Florida:

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16          Section 1. Section 760.02, Florida Statutes, is amended to  
17          read:

18          760.02 Definitions.—For the purposes of ss. 760.01-760.11  
19          and 509.092, the term:

20          (1)~~(10)~~ "Aggrieved person" means any person who files a  
21          complaint with the Human Relations Commission.

22          (2) "Commission" means the Florida Commission on Human  
23          Relations created by s. 760.03.

24          (3) "Commissioner" or "member" means a member of the  
25          commission.

26           (4) "Discriminatory practice" means any practice made  
27 unlawful by the Florida Civil Rights Act of 1992.

28           (5)~~(7)~~ "Employer" means any person employing 15 or more  
29 employees for each working day in each of 20 or more calendar  
30 weeks in the current or preceding calendar year, and any agent  
31 of such a person.

32           (6)~~(8)~~ "Employment agency" means any person regularly  
33 undertaking, with or without compensation, to procure employees  
34 for an employer or to procure for employees opportunities to  
35 work for an employer, and includes an agent of such a person.

36           (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss.  
37 760.01-760.11 and 509.092.

38           (8)~~(9)~~ "Labor organization" means any organization which  
39 exists for the purpose, in whole or in part, of collective  
40 bargaining or of dealing with employers concerning grievances,  
41 terms or conditions of employment, or other mutual aid or  
42 protection in connection with employment.

43           (9)~~(5)~~ "National origin" includes ancestry.

44           (10)~~(6)~~ "Person" includes an individual, association,  
45 corporation, joint apprenticeship committee, joint-stock  
46 company, labor union, legal representative, mutual company,  
47 partnership, receiver, trust, trustee in bankruptcy, or  
48 unincorporated organization; any other legal or commercial  
49 entity; the state; or any governmental entity or agency.

50           (11) "Pregnancy" means pregnancy, childbirth, or related

51 conditions, including, but not limited to, lactation or the  
52 expression of breast milk.

53 (12)~~(11)~~ "Public accommodations" means places of public  
54 accommodation, lodgings, facilities principally engaged in  
55 selling food for consumption on the premises, gasoline stations,  
56 places of exhibition or entertainment, and other covered  
57 establishments. Each of the following establishments which  
58 serves the public is a place of public accommodation within the  
59 meaning of this section:

60 (a) Any inn, hotel, motel, or other establishment which  
61 provides lodging to transient guests, other than an  
62 establishment located within a building which contains not more  
63 than four rooms for rent or hire and which is actually occupied  
64 by the proprietor of such establishment as his or her residence.

65 (b) Any restaurant, cafeteria, lunchroom, lunch counter,  
66 soda fountain, or other facility principally engaged in selling  
67 food for consumption on the premises, including, but not limited  
68 to, any such facility located on the premises of any retail  
69 establishment, or any gasoline station.

70 (c) Any motion picture theater, theater, concert hall,  
71 sports arena, stadium, or other place of exhibition or  
72 entertainment.

73 (d) Any establishment which is physically located within  
74 the premises of any establishment otherwise covered by this  
75 subsection, or within the premises of which is physically

76 | located any such covered establishment, and which holds itself  
77 | out as serving patrons of such covered establishment.

78 |       (13) "Reasonable accommodation" means making reasonable  
79 | changes in the workplace, including, but not limited to,  
80 | providing more frequent or longer breaks; assistance with manual  
81 | labor; temporary job restructuring; temporary modification in  
82 | work schedules, seating, or equipment; temporary relief from  
83 | lifting requirements; temporary transfer to less strenuous or  
84 | less hazardous work; reasonable time off to recover from  
85 | childbirth; and reasonable private, nonrestroom space for  
86 | lactation or the expression of breast milk.

87 |       (14) "Undue hardship" means an accommodation requiring  
88 | significant difficulty or expense when considered in light of  
89 | the following factors:

90 |       (a) The nature, cost, and duration of the accommodation.

91 |       (b) The overall financial resources of the employer.

92 |       (c) The overall size of the business of the employer with  
93 | respect to the number of employees and the number, type, and  
94 | location of the employer's facilities.

95 |       (d) The effect on expenses and resources or any other  
96 | impacts of such accommodation on the employer's operation.

97 |       Section 2. Subsection (11) is added to section 760.10,  
98 | Florida Statutes, to read:

99 |       760.10 Unlawful employment practices.—

100 |       (11) (a) It is an unlawful employment practice for an

101 employer to:

102 1. Fail to make reasonable accommodations, upon request,  
103 for an employee with a medical need related to pregnancy, unless  
104 the employer can demonstrate that the accommodation would impose  
105 an undue hardship on the operation of the employer's business.  
106 If, for any reason, an employer's policy requires similar  
107 accommodations to be made or if similar accommodations have been  
108 made in the past or are currently being made for other  
109 employees, there is a rebuttable presumption that the  
110 accommodation does not impose an undue hardship on the employer.

111 2. Deny employment opportunities to an otherwise qualified  
112 job applicant or employee, if such denial is based on the  
113 employer's need to make reasonable accommodations for the  
114 applicant or employee because of a medical need related to  
115 pregnancy.

116 3. Require an employee to take leave if another reasonable  
117 accommodation can be provided.

118 4. Take adverse action against an employee in the terms,  
119 conditions, or privileges of employment for requesting or using  
120 a reasonable accommodation. For purposes of this subparagraph,  
121 the term "adverse action" includes, but is not limited to,  
122 failing to reinstate an employee to her original position, or an  
123 equivalent position, with equivalent pay, seniority, and  
124 benefits after the need for such accommodation ceases or  
125 counting an employee's absences from work due to a medical need

126 related to pregnancy against the employee under the employer's  
127 no-fault attendance policy.

128  
129 This paragraph does not require an employer to create additional  
130 employment opportunities that the employer would not otherwise  
131 have created or to discharge an employee, transfer an employee  
132 who has more seniority, or promote an employee who is not  
133 qualified for the position unless the employer has a policy for  
134 doing so for other classes of employees who have a right to  
135 reasonable accommodations.

136 (b) An employer shall provide written notice of the right  
137 to be free from discrimination in relation to a medical need  
138 related to pregnancy, including the right to reasonable  
139 accommodations, to:

140 1. New employees at the commencement of employment.

141 2. Existing employees beginning on July 1, 2021, but no  
142 later than November 1, 2021.

143 3. Any employee who notifies an employer of her pregnancy  
144 no later than 10 days after such notification.

145 (c) An employer shall post a written notice in conspicuous  
146 places on its premises of the right to be free from  
147 discrimination in relation to a medical need related to  
148 pregnancy, including the right to reasonable accommodations.

149 (d) The commission shall develop education and outreach  
150 programs as necessary to inform employers, employees, and job

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151 applicants about their rights and responsibilities under this  
152 section.

153 (e) This section may not be construed to preempt, limit,  
154 diminish, or otherwise affect any employer policy or provision  
155 or other provision of law relating to sex or pregnancy  
156 discrimination or in any way diminish the coverage for pregnancy  
157 under any other provision of this chapter.

158 Section 3. This act shall take effect July 1, 2021.