

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

12
 13 Be It Enacted by the Legislature of the State of Florida:
 14

15 Section 1. Subsections (12), (13), and (14) are added to
 16 section 760.02, Florida Statutes, to read:

17 760.02 Definitions.—For the purposes of ss. 760.01–760.11
 18 and 509.092, the term:

19 (12) "Pregnancy" means pregnancy, childbirth, or related
 20 conditions, including, but not limited to, lactation or the
 21 expression of breast milk.

22 (13) "Reasonable accommodation" means making reasonable
 23 changes in the workplace, including, but not limited to,
 24 providing more frequent or longer breaks; assistance with manual
 25 labor; temporary job restructuring; temporary modification in

26 work schedules, seating, or equipment; temporary relief from
27 lifting requirements; temporary transfer to less strenuous or
28 less hazardous work; reasonable time off to recover from
29 childbirth; and reasonable private, nonrestroom space for
30 lactation or the expression of breast milk.

31 (14) "Undue hardship" means an accommodation requiring
32 significant difficulty or expense when considered in light of
33 the following factors:

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

35 (b) The overall financial resources of the employer.

36 (c) The overall size of the business of the employer with
37 respect to the number of employees and the number, type, and
38 location of the employer's facilities.

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

41 Section 2. Paragraph (c) is added to subsection (1) of
42 section 760.10, Florida Statutes, and subsections (11), (12),
43 and (13) are added to that section, to read:

44 760.10 Unlawful employment practices.—

45 (1) It is an unlawful employment practice for an employer:

46 (c)1. To fail to make reasonable accommodations, upon
47 request, for an employee with a medical need related to
48 pregnancy, unless the employer can demonstrate that the
49 accommodation would impose an undue hardship on the operation of
50 the employer's business. If an employer's policy requires

51 similar accommodations to be made, or if similar accommodations
52 have been made in the past or are currently being made for other
53 employees for any reason, there is a rebuttable presumption that
54 the accommodation does not impose an undue hardship on the
55 employer.

56 2. To deny employment opportunities to an otherwise
57 qualified job applicant or employee, if such denial is based on
58 the employer's need to make reasonable accommodations for the
59 applicant or employee because of a medical need related to
60 pregnancy.

61 3. To require an employee to take leave if another
62 reasonable accommodation can be provided.

63 4. To take adverse action against an employee in the
64 terms, conditions, or privileges of employment for requesting or
65 using a reasonable accommodation. For purposes of this
66 subparagraph, the term "adverse action" includes, but is not
67 limited to, failing to reinstate an employee to her original
68 position, or an equivalent position, with equivalent pay,
69 seniority, and benefits after the need for such accommodation
70 ceases or counting an employee's absences from work due to a
71 medical need related to pregnancy against the employee under the
72 employer's no-fault attendance policy.

73
74 This paragraph does not require an employer to create additional
75 employment opportunities that the employer would not otherwise

76 have created or to discharge an employee, transfer an employee
77 who has more seniority, or promote an employee who is not
78 qualified for the position unless the employer has a policy for
79 doing so for other classes of employees who have a right to
80 accommodations.

81 (11) (a) An employer shall provide written notice of the
82 right to be free from discrimination in relation to pregnancy,
83 including the right to reasonable accommodations, to:

84 1. New employees at the commencement of employment.

85 2. Existing employees beginning on July 1, 2020, but no
86 later than November 1, 2020.

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

89 (b) An employer shall post a written notice in conspicuous
90 places on its premises of the right to be free from
91 discrimination in relation to a medical need related to
92 pregnancy, including the right to reasonable accommodations.

93 (12) The commission shall develop education and outreach
94 programs as necessary to inform employers, employees, and job
95 applicants about their rights and responsibilities under
96 paragraph (1) (c).

97 (13) This section may not be construed to preempt, limit,
98 diminish, or otherwise affect any employer policy or provision
99 or other provision of law relating to sex or pregnancy
100 discrimination or in any way diminish the coverage for pregnancy

HB 795

2020

101 | under any other provision of this chapter.

102 | Section 3. This act shall take effect July 1, 2020.