

2015 -- S 0276 SUBSTITUTE A AS AMENDED

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LC000851/SUB A/2
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES

Introduced By: Senators Gallo, Ruggerio, Goodwin, and Lynch

Date Introduced: February 11, 2015

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative findings and intent. It is the intent of the General Assembly to
2 combat pregnancy discrimination, promote public health, and ensure full and equal participation
3 for women in the labor force by requiring employers to provide reasonable accommodations to
4 employees with conditions related to pregnancy, childbirth, or a related condition. Current
5 workplace laws are inadequate to protect pregnant women from being forced out or fired when
6 they need a simple, reasonable accommodation in order to stay on the job. Many pregnant women
7 are single mothers or the primary breadwinners for their families; if they lose their jobs then the
8 whole family will suffer. This is not an outcome that families can afford in today's difficult
9 economy.

10 SECTION 2. Chapter 28-5 of the General Laws entitled "Fair Employment Practices" is
11 hereby amended by adding thereto the following section:

12 **28-5-7.4 Accommodation of pregnancy-related conditions. -- (a) It shall be an**
13 **unlawful employment practice for an employer, as defined in § 28-5-6 (8), to do the following:**

14 (1) To refuse to reasonably accommodate an employee's or prospective employee's
15 condition related to pregnancy, childbirth, or a related medical condition, including, but not
16 limited to, the need to express breast milk for a nursing child, if she so requests, unless the
17 employer can demonstrate that the accommodation would pose an undue hardship on the
18 employer's program, enterprise, or business;

19 (2) To require an employee to take leave if another reasonable accommodation can be

1 provided to an employee's condition related to the pregnancy, childbirth, or a related medical
2 condition;

3 (3) To deny employment opportunities to an employee or prospective employee, if such
4 denial is based on the refusal of the employer to reasonably accommodate an employee's or
5 prospective employee's condition related to pregnancy, childbirth, or a related medical condition;

6 (4) To fail to provide written notice, including notice conspicuously posted at an
7 employer's place of business in an area accessible to employees, of the right to be free from
8 discrimination in relation to pregnancy, childbirth and related conditions, including the right to
9 reasonable accommodations for conditions related to pregnancy, childbirth or related conditions
10 pursuant to this section to:

11 (i) New employees at the commencement of employment;

12 (ii) Existing employees within one hundred twenty days (120) after the effective date of
13 this section;

14 (iii) Any employee who notifies the employer of her pregnancy within ten (10) days of
15 such notification;

16 (5) For any person, whether or not an employer, employment agency, labor organization
17 or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to
18 be an unlawful employment practice, or to obstruct or prevent any person from complying with
19 the provisions of this section or any order issued pursuant to this section, or to attempt directly or
20 indirectly to commit any act declared by this section to be an unlawful employment practice.

21 (b) For the purposes of this section, the following terms shall have the following
22 meanings:

23 (1) "Reasonably accommodate" means providing reasonable accommodations, including,
24 but not limited to, more frequent or longer breaks, time off to recover from childbirth, acquisition
25 or modification of equipment, seating, temporary transfer to a less strenuous or hazardous
26 position, job restructuring, light duty, break time and private non-bathroom space for expressing
27 breast milk, assistance with manual labor, or modified work schedules;

28 (2) "Related conditions" includes, but is not limited to, lactation or the need to express
29 breast milk for a nursing child;

30 (3) "Undue hardship" means an action requiring significant difficulty or expense to the
31 employer. In making a determination of undue hardship, the factors that may be considered
32 include, but shall not be limited to, the following:

33 (i) The nature and cost of the accommodation;

34 (ii) The overall financial resources of the employer; the overall size of the business of the

1 employer with respect to the number of employees, and the number, type, and location of its
2 facilities; and

3 (iii) The effect on expenses and resources or the impact otherwise of such
4 accommodation upon the operation of the employer.

5 (A) The employer shall have the burden of proving undue hardship.

6 (B) The fact that the employer provides or would be required to provide a similar
7 accommodation to other classes of employees who need it, such as those who are injured on the
8 job or those with disabilities, shall create a rebuttable presumption that the accommodation does
9 not impose an undue hardship on the employer.

10 (4) "Qualified employee or prospective employee" means a "qualified individual" as
11 defined in § 42-87-1(6)(i).

12 (c) No employer shall be required by this section to create additional employment that the
13 employer would not otherwise have created, unless the employer does so or would do so for other
14 classes of employees who need accommodation, such as those who are injured on the job or those
15 with disabilities.

16 (d) No employer shall be required to discharge any employee, transfer any employee
17 with more seniority, or promote any employee who is not qualified to perform the job, unless the
18 employer does so or would do so to accommodate other classes of employees who need it, such
19 as those who are injured on the job or those with disabilities.

20 (e) The provisions of this section shall not be construed to affect any other provision of
21 law relating to sex discrimination or pregnancy, or to preempt, limit, diminish or otherwise affect
22 any other law that provides greater protection or specific benefits with respect to pregnancy,
23 childbirth or medical conditions related to childbirth.

24 (f) Nothing in this section shall be construed to require an individual with a need related
25 to pregnancy, childbirth, or a related medical condition to accept an accommodation which such
26 individual chooses not to accept.

27 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES

1 This act would prohibit employers from discriminating against, and failing to provide
2 reasonable accommodations for, employees due to pregnancy or medical conditions related to
3 pregnancy or childbirth.

4 This act would take effect upon passage.

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