House Employee Affairs Subcommittee Am. #1

Amendment No._____

FILED
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Clerk _____
Comm. Amdt. _____
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Signature of Sponsor

AMEND Senate Bill No. 2520* **House Bill No. 2708**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 50, is amended by adding the following as a new chapter:

50-10-101.

This chapter shall be known and may be cited as the "Tennessee Pregnant Workers Fairness Act."

50-10-102.

As used in this chapter:

(1) "Commissioner" means the commissioner of labor and workforce development;

(2) "Employer" means a person employing fifteen (15) or more employees;

(3) "Reasonable accommodation" may include:

(A) Making existing facilities used by employees readily accessible and usable;

(B) Providing more frequent, longer, or flexible breaks;

(C) Providing a private place, other than a bathroom stall, for the purpose of expressing milk;

(D) Modifying food or drink policy;

(E) Providing modified seating or allowing the employee to sit more frequently if the job requires standing;

(F) Providing assistance with manual labor and limits on lifting;

(G) Authorizing a temporary transfer to a vacant position;

(H) Providing job restructuring or light duty, if available;

(I) Acquiring or modifying of equipment, devices, or an employee's work station;

(J) Modifying work schedules; and

(K) Allowing flexible scheduling for prenatal visits; and

(4) "Undue hardship" means an action requiring significant difficulty or expense.

50-10-103.

(a) An employer is not required to do the following unless the employer does or would do so for another employee or a class of employees that need a reasonable accommodation:

(1) Hire new employees that the employer would not have otherwise hired;

(2) Discharge an employee, transfer another employee with more seniority, or promote another employee who is not qualified to perform the new job;

(3) Create a new position, including a light duty position for the employee, unless a light duty position would be provided for another equivalent employee;

(4) Compensate an employee for more frequent or longer break periods, unless the employee uses a break period that would otherwise be compensated; or

(5) Construct a permanent, dedicated space for expressing milk.

(b) It is an unlawful employment practice for an employer to:

(1) Fail or refuse to make reasonable accommodations for medical needs arising from pregnancy, childbirth, or related medical conditions of an applicant for employment or an employee, unless the employer demonstrates that the accommodation would impose an undue hardship on the operation of the business of the employer;

(2) Require an employee to take leave under a leave law or policy adopted by the employer if another reasonable accommodation can be provided to the known limitations for medical needs arising from the employee's pregnancy, childbirth, or related medical conditions; or

(3) Take adverse action against an employee in the terms, conditions, or privileges of employment for requesting or using a reasonable accommodation to the known limitations for medical needs arising from the employee's pregnancy, childbirth, or related medical conditions, including, but not limited to, counting an absence related to pregnancy under no fault attendance policies.

(c) An employer may, if required of other employees with medical conditions, request that an employee with a medical need relating to pregnancy, childbirth, or related medical conditions provide medical certification from a healthcare professional if the employee is requesting a reasonable accommodation related to temporary transfer to a vacant position, job restructuring, or light duty, or an accommodation that requires time away from work. During the time period in which an employee is making good faith efforts to obtain medical certification, an employer must begin engaging in a good faith interactive process with the employee to determine if a reasonable accommodation can be provided absent undue hardship. An employer shall not take adverse action against an employee related to the employee's need for accommodation while the employee is engaging in good faith efforts to obtain medical certification.

50-10-104.

(a) The commissioner shall enforce this chapter and may promulgate rules to effectuate this chapter in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) Any person adversely affected by an act in violation of this chapter may bring a civil action in the chancery court or circuit court in the jurisdiction where the alleged violation occurred. In the action, a court may issue back pay, compensatory damages, prejudgment interest, reasonable attorney's fees, and any legal or equitable relief that will effectuate the purpose of this chapter.

(c) A civil action under this chapter must be commenced no later than one (1) year from the date of termination of employment or the date of the adverse employment action. An employee is not required to pursue an administrative action or remedy prior to filing suit under this section.

SECTION 2. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2020, the public welfare requiring it.