

1 H.136

2 Introduced by Representatives Till of Jericho, Brumsted of Shelburne,
3 Buckholz of Hartford, Burke of Brattleboro, Christie of
4 Hartford, Colburn of Burlington, Connor of Fairfield, Donovan
5 of Burlington, Dunn of Essex, Howard of Rutland City, Joseph
6 of North Hero, Macaig of Williston, Miller of Shaftsbury,
7 Poirier of Barre City, Stevens of Waterbury, Sullivan of
8 Burlington, Walz of Barre City, Weed of Enosburgh, and
9 Yantachka of Charlotte

10 Referred to Committee on

11 Date:

12 Subject: Labor; employment practices; unfair employment practices;
13 pregnancy; accommodations

14 Statement of purpose of bill as introduced: This bill proposes to require
15 employers to provide an accommodation to a pregnant employee unless the
16 accommodation would impose undue hardship on the employer.

17 An act relating to accommodations for pregnant employees

18 It is hereby enacted by the General Assembly of the State of Vermont:

19 Sec. 1, 21 V.S.A. § 495k is added to read:

1 ~~§ 495k ACCOMMODATIONS FOR PREGNANCY RELATED~~

2 CONDITIONS

3 (a) It shall be an unlawful employment practice for an employer to:

4 (1) fail or refuse to reasonably accommodate an employee's condition
5 related to pregnancy, childbirth, or a related medical condition unless the
6 employer can demonstrate that the accommodation would impose an undue
7 hardship on the employer;

8 (2) require an employee to take leave if another reasonable
9 accommodation can be provided for an employee's condition related to
10 pregnancy, childbirth, or a related medical condition;

11 (3) deny employment opportunities to an employee if the denial is based
12 on the refusal of the employer to reasonably accommodate an employee's
13 condition related to pregnancy, childbirth, or a related medical condition;

14 (4) fail or refuse to treat, for an employment-related purpose, an
15 employee who the employer knows, ~~or should know,~~ is pregnant as well as the
16 employer treats or would treat any other employee who is not pregnant but is
17 similar in his or her ability or inability to work;

18 (5) require an employee to accept an accommodation that the employee
19 chooses not to accept, if the employee does not have a known limitation
20 related to pregnancy, childbirth, or a related medical condition, or if the
21 accommodation is unnecessary for the employee to perform the essential

1 ~~duties of her job; or~~

2 ~~(6) take adverse employment action against an employee for requesting~~
3 ~~or using a reasonable accommodation for a condition related to pregnancy,~~
4 ~~childbirth, or a related medical condition.~~

5 ~~(b) As used in this section:~~

6 ~~(1) “Reasonable accommodation” means the changes and modifications~~
7 ~~which can be made in the structure of a job or in the manner in which a job is~~
8 ~~performed. Reasonable accommodation may include more frequent or longer~~
9 ~~breaks, time off to recover from childbirth, acquisition or modification of~~
10 ~~equipment, seating, temporary transfer to a less strenuous or hazardous~~
11 ~~position, job restructuring, light duty, assistance with manual labor, modified~~
12 ~~work schedules, or the provision of unpaid leave in addition to any leave~~
13 ~~provided pursuant to federal law or sections 472 and 472a of this title.~~

14 ~~(2) “Undue hardship” means an action requiring significant difficulty or~~
15 ~~expense to the employer. Factors to be considered in determining whether an~~
16 ~~undue hardship is imposed by the requirement that reasonable accommodation~~
17 ~~be made for a condition related to pregnancy, childbirth, or a related medical~~
18 ~~condition include:~~

19 ~~(A) the overall size of the employer’s operation with respect to the~~
20 ~~number of employees, number and type of facilities, and size of budget; and~~

21 ~~(B) the cost for the accommodation needed.~~

1 ~~(c) Nothing in this section shall be construed to affect any other law~~
2 ~~providing protections against sex or pregnancy discrimination, pregnancy, or~~
3 ~~any law that provides greater protection or benefits with respect to pregnancy,~~
4 ~~childbirth, or a medical condition related to childbirth.~~

(d) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business.

5 ~~Sec. 2. EFFECTIVE DATE~~

6 ~~This act shall take effect on July 1, 2017.~~

Sec. 2. EFFECTIVE DATES

(a) This section and in Sec. 1, 21 V.S.A. § 495k subsections (a)–(c) shall take effect on July 1, 2017.

(b) In Sec. 1, 21 V.S.A. § 495k subsection (d) shall take effect on January 1, 2018.

Sec. 1. 21 V.S.A. § 495d is amended to read:

§ 495d. DEFINITIONS

As used in this subchapter:

** * **

(14) "Pregnancy-related condition" means a limitation of an employee's ability to perform the functions of a job caused by pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

Sec. 2. 21 V.S.A. § 495k is added to read:

§ 495k. ACCOMMODATIONS FOR PREGNANCY-RELATED

CONDITIONS

(a)(1) It shall be an unlawful employment practice for an employer to fail to provide a reasonable accommodation for an employee's pregnancy-related condition, unless it would impose an undue hardship on the employer.

(2) An employee with a pregnancy-related condition, regardless of whether the employee is an "individual with a disability" as defined in subdivision 495d(5) of this subchapter, shall have the same rights and be subject to the same standards with respect to the provision of a reasonable accommodation, pursuant to this subchapter, as a qualified individual with a disability as defined in subdivision 495d(6) of this subchapter.

(b) Nothing in this section shall be construed to diminish the rights, privileges, or remedies of an employee pursuant to federal or State law, a collective bargaining agreement, or an employment contract.

(c) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business.

(d) Nothing in this section shall be construed to indicate or deem that a pregnancy-related condition necessarily constitutes a disability.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2018.