

By: Senator(s) Turner-Ford

To: Labor; Accountability,
Efficiency, Transparency

SENATE BILL NO. 2148

1 AN ACT TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BASED ON
2 PREGNANCY, CHILDBIRTH OR A RELATED CONDITION; AND FOR RELATED
3 PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** This act may be cited as the "Mississippi
6 Pregnant Workers Fairness Act."

7 **SECTION 2.** It is the intent of the Mississippi Legislature
8 to combat pregnancy discrimination, promote public health, and
9 ensure full and equal participation for women in the labor force
10 by requiring employers to provide reasonable accommodations to
11 employees with conditions related to pregnancy, childbirth or a
12 related condition. Mississippi historically has no workplace laws
13 to protect pregnant women from being forced out or fired when they
14 need only a simple, reasonable accommodation in order to stay on
15 the job. Many pregnant women are single mothers or the primary
16 breadwinners for their families; if they lose their jobs, then the
17 whole family will suffer. This is not an outcome that families
18 can afford in a difficult economy.



19 **SECTION 3.** (1) For the purposes of this act:

20 (a) The term "reasonable accommodations" includes, but
21 is not limited to: more frequent or longer breaks, time off to
22 recover from childbirth, acquisition or modification of equipment,
23 seating, temporary transfer to a less strenuous or hazardous
24 position, job restructuring, light duty, break time and private
25 nonbathroom space for expressing breast milk, assistance with
26 manual labor, or modified work schedules; however:

27 (i) An employer is not required to create
28 additional employment that the employer would not otherwise have
29 created unless the employer does so or would do so for other
30 classes of employees who need accommodation; and

31 (ii) An employer is not required to discharge any
32 employee, transfer any employee with more seniority, or promote an
33 employee who is not qualified to perform the job, unless the
34 employer does so or would do so to accommodate other classes of
35 employees who need it.

36 (b) The term "related conditions" includes, but is not
37 limited to, lactation or the need to express breast milk for a
38 nursing child.

39 (c) The term "undue hardship" means an action requiring
40 significant difficulty or expense when considered in light of the
41 following factors:



42 (i) The employer has the burden of proving undue
43 hardship. In making a determination of undue hardship, the
44 factors that may be considered include, but are not limited to:

45 1. The nature and cost of the accommodation;

46 2. The overall financial resources of the
47 employer;

48 3. The overall size of the business of the
49 employer with respect to the number of employees and the number,
50 type and location of its facilities; and

51 4. The effect on expenses and resources or
52 other impact of an accommodation upon the operation of the
53 employer.

54 (ii) The fact that the employer provides or would
55 be required to provide a similar accommodation to other classes of
56 employees who need it creates a rebuttable presumption that the
57 accommodation does not impose an undue hardship on the employer.

58 (2) An employer shall not:

59 (a) Refuse to make reasonable accommodations for any
60 condition of a job applicant or employee related to pregnancy,
61 childbirth or a related condition, if the employee or applicant so
62 requests, unless the employer can demonstrate that the
63 accommodation would impose an undue hardship on the employer's
64 program, enterprise or business;

65 (b) Take adverse action against an employee who
66 requests or uses an accommodation in terms, conditions or



67 privileges of employment, including, but not limited to, failure
68 to reinstate the employee to her original job or to an equivalent
69 position with equivalent pay and accumulated seniority,
70 retirement, fringe benefits and other applicable service credits
71 when her need for reasonable accommodations ceases;

72 (c) Deny employment opportunities to an otherwise
73 qualified job applicant or employee, if the denial is based on the
74 need of the employer to make reasonable accommodations to the
75 known conditions related to the pregnancy, childbirth or related
76 conditions of the applicant or employee; or

77 (d) Require an employee to take leave if another
78 reasonable accommodation can be provided to the known conditions
79 related to the pregnancy, childbirth or related conditions of an
80 employee.

81 (3) The employer must engage in a timely, good-faith and
82 interactive process with the employee to determine effective
83 reasonable accommodations.

84 (4) (a) An employer must provide written notice of the
85 right to be free from discrimination in relation to pregnancy,
86 childbirth and related conditions, including the right to
87 reasonable accommodations for conditions related to pregnancy,
88 childbirth or related conditions, to:

89 (i) New employees at the commencement of
90 employment;



91 (ii) Existing employees within one hundred twenty
92 days (120) after the effective date of this act; and

93 (iii) Any employee who notifies the employer of
94 her pregnancy within ten (10) days of receiving that notice.

95 (b) The notice must also be posted conspicuously at an
96 employer's place of business in an area accessible to employees.

97 (5) (a) This section creates an actionable right for any
98 person who is an employee and who believes that the person's
99 employer has violated the provisions of this section. An employee
100 who is aggrieved under this section may file a petition in the
101 proper circuit court.

102 (b) If an employer is found to have violated the
103 provisions of this section, the employee shall be awarded
104 reasonable remedies to include attorney's fees, prejudgment
105 interest, back pay, liquidated damages and one hundred percent
106 (100%) of the difference of unpaid wages. If the employer is
107 found to have willfully violated the provisions of subsection (2)
108 of this section, the employee shall be awarded three hundred
109 percent (300%) of reasonable remedies.

110 **SECTION 4.** This act shall be codified in Chapter 1, Title
111 71, Mississippi Code of 1972.

112 **SECTION 5.** This act shall take effect and be in force from
113 and after July 1, 2020.

