

By: Representatives Williams-Barnes, Stamps

To: Judiciary A

HOUSE BILL NO. 1046

1 AN ACT TO CREATE THE "MISSISSIPPI PREGNANT WORKERS FAIRNESS
 2 ACT" TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BASED ON PREGNANCY,
 3 CHILDBIRTH OR A RELATED CONDITION; TO PROVIDE FOR THE DEFINITIONS
 4 OF CERTAIN TERMS; TO PROVIDE THAT AN EMPLOYER SHALL PROVIDE
 5 WRITTEN NOTICE OF THE RIGHT TO BE FREE FROM DISCRIMINATION IN
 6 RELATION TO PREGNANCY, CHILDBIRTH AND RELATED CONDITIONS; TO
 7 CREATE AN ACTIONABLE RIGHT FOR ANY PERSON WHO IS AN EMPLOYEE AND
 8 WHO BELIEVES HIS OR HER RIGHTS HAVE BEEN VIOLATED; AND FOR RELATED
 9 PURPOSES.

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

11 **SECTION 1.** This act shall be known and may be cited as the
 12 "Mississippi Pregnant Workers Fairness Act."

13 **SECTION 2.** It is the intent of the Legislature to combat
 14 pregnancy discrimination, promote public health and ensure full
 15 and equal participation for women in the labor force by requiring
 16 employers to provide reasonable accommodations to employees with
 17 conditions related to pregnancy, childbirth or a related
 18 condition. Mississippi currently has no current workplace laws to
 19 protect pregnant women from being forced out or fired when they
 20 need a simple, reasonable accommodation in order to stay on the
 21 job. Many pregnant women are single mothers or the primary



22 breadwinners for their families – if they lose their jobs then the
23 whole family will suffer. This is not an outcome that families
24 can afford in today's difficult economy.

25 **SECTION 3.** (1) No employer may:

26 (a) Refuse to make reasonable accommodations for any
27 condition of a job applicant or employee related to pregnancy,
28 childbirth or a related condition, including, but not limited to,
29 the need to express breast milk for a nursing child, if the
30 employee or applicant so requests, unless the employer can
31 demonstrate that the accommodation would impose an undue hardship
32 on the employer's program, enterprise or business;

33 (b) Take adverse action against an employee who
34 requests or uses an accommodation in terms, conditions or
35 privileges of employment, including, but not limited to, failing
36 to reinstate the employee to her original job or to an equivalent
37 position with equivalent pay and accumulated seniority,
38 retirement, fringe benefits and other applicable service credits
39 when her need for reasonable accommodations ceases;

40 (c) Deny employment opportunities to an otherwise
41 qualified job applicant or employee, if such denial is based on
42 the need of the employer to make reasonable accommodations to the
43 known conditions related to the pregnancy, childbirth or related
44 conditions of the applicant or employee; or

45 (d) Require an employee to take leave if another
46 reasonable accommodation can be provided to the known conditions



47 related to the pregnancy, childbirth or related conditions of an
48 employee.

49 (2) The employer shall engage in a timely, good faith and
50 interactive process with the employee to determine effective
51 reasonable accommodations.

52 (3) The following words and phrases shall have the meanings
53 as defined in this section unless the context clearly indicates
54 otherwise:

55 (a) "Reasonable accommodations" shall include, but not
56 be limited to: more frequent or longer breaks, time off to
57 recover from childbirth, acquisition or modification of equipment,
58 seating, temporary transfer to a less strenuous or hazardous
59 position, job restructuring, light duty, break time and private
60 nonbathroom space for expressing breast milk, assistance with
61 manual labor or modified work schedules, provided that:

62 (i) No employer shall be required by this section
63 to create additional employment that the employer would not
64 otherwise have created, unless the employer does so or would do so
65 for other classes of employees who need accommodation, and

66 (ii) The employer shall not be required to
67 discharge any employee, transfer any employee with more seniority
68 or promote any employee who is not qualified to perform the job,
69 unless the employer does so or would do so to accommodate other
70 classes of employees who need it.



71 (b) "Related conditions" includes, but is not limited
72 to, lactation or the need to express breast milk for a nursing
73 child.

74 (c) "Undue hardship" means an action requiring
75 significant difficulty or expense, when considered in light of the
76 factors set forth as follows:

77 (i) The employer shall have the burden of proving
78 undue hardship. In making a determination of undue hardship, the
79 factors that may be considered include, but shall not be limited
80 to:

81 1. The nature and cost of the accommodation;

82 2. The overall financial resources of the
83 employer;

84 3. The overall size of the business of the
85 employer with respect to the number of employees;

86 4. The number, type and location of the
87 facilities of the employer; and

88 5. The effect on expenses and resources or
89 the impact otherwise of such accommodation upon the operation of
90 the employer.

91 (ii) The fact that the employer provides or would
92 be required to provide a similar accommodation to other classes of
93 employees who need it shall create a rebuttable presumption that
94 the accommodation does not impose an undue hardship on the
95 employer.



96 **SECTION 4.** An employer shall provide written notice of the
97 right to be free from discrimination in relation to pregnancy,
98 childbirth and related conditions, including the right to
99 reasonable accommodations for conditions related to pregnancy,
100 childbirth or related conditions, pursuant to this act to:

101 (a) New employees at the commencement of employment;

102 (b) Existing employees within one hundred twenty (120)
103 days after July 1, 2022; and

104 (c) Any employee who notifies the employer of her
105 pregnancy within ten (10) days of such notification.

106 Such notice must also be conspicuously posted at an
107 employer's place of business in an area accessible to employees.

108 **SECTION 5.** (1) An actionable right is hereby created for
109 any person who is an employee and who believes that such person's
110 employer has violated the provisions of this section. Any such
111 employee who is aggrieved under this section may file a petition
112 in the proper circuit court in Mississippi.

113 (2) If an employer is found to have violated the provisions
114 of this act, the employee shall be awarded reasonable remedies,
115 which shall include attorney's fees, prejudgment interest, back
116 pay, liquidated damages and one hundred percent (100%) of the
117 difference of unpaid wages. If the employer is found to have
118 willfully violated the provisions of subsection (1), the employee
119 shall be awarded three hundred percent (300%) of reasonable
120 remedies.



121 **SECTION 6.** This act shall take effect and be in force from
122 and after July 1, 2022.

