



Office of the City Clerk

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Legislation Details (With Text)

File #: O2015-169
Type: Ordinance **Status:** Failed to Pass
File created: 1/21/2015 **In control:** City Council
Final action: 5/20/2015

Title: Amendment of Municipal Code Chapter 2-160 by adding new Section 2-160-075 to require employers to provide reasonable accommodation to employees with conditions related to pregnancy or childbirth

Sponsors: Thomas, Latasha R.

Indexes: Ch. 160 Human Rights

Attachments: 1. O2015-169.pdf

Date	Ver.	Action By	Action	Result
5/20/2015	1	City Council	Failed to Pass	
1/21/2015	1	City Council	Referred	

ORDINANCE

WHEREAS, the City of Chicago is a home rule unit government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs, including the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, as of January 1, 2015, employers in Illinois must provide pregnant workers who request them more or longer bathroom breaks, rest periods, light duty, job transfers, leave time or other accommodations, unless doing so creates an undue hardship for the employer; and

WHEREAS, the Illinois General Assembly concluded that current workplace laws are inadequate to protect pregnant workers from enjoying equal employment opportunities; and

WHEREAS, it found that women are nearly 50% of all workers in Illinois and failing to provide reasonable accommodations to pregnant women leads to lost wages, periods of unemployment, and lost employment opportunities and job benefits such as seniority, all of which have lifelong repercussions on women's economic security and advancement and the well-being of their families; and

WHEREAS, by continuing to work during pregnancy, women can maintain and advance their economic security; and

WHEREAS, women who work during pregnancy may be able to take a longer period of leave following childbirth, which in turn facilitates breastfeeding, bonding with and caring for a new child, and recovering from childbirth; and

WHEREAS, enabling pregnant workers to work through pregnancy is good for business because

providing pregnant employees with reasonable, temporary accommodations increases worker productivity, retention, and morale, decreases retraining costs, and reduces health care costs associated with pregnancy complications; and

WHEREAS, the City Council of the City of Chicago intends to ensure full and equal participation for women in the Chicago labor force by requiring employers to provide reasonable accommodations to employees with conditions related to pregnancy or childbirth; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Chapter 2-160 of the Municipal Code of Chicago is hereby amended by adding a new Section 2-160-075, as follows:

2-160-075 Pregnancy - reasonable accommodations.

(a) For purposes of this section, the following definitions shall apply:

"Employee" means any individual performing services for remuneration within the City of Chicago for an employer.

"Employer" includes: (i) any person employing one or more employees within the City of Chicago; and (ii) any municipal corporation or other local governmental unit or agency located within the City of Chicago. "Employer" does not include any religious corporation, association, educational institution, society, or non-profit nursing institution conducted by and for those who rely upon treatment by prayer through spiritual means in accordance with the tenets of a recognized church or religious denomination with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, society or nonprofit nursing institution of its activities.

"Pregnancy" means pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth.

"Reasonable accommodations" means reasonable modifications or adjustments to the job application process or work environment, or to the manner or circumstances under which the position desired or held is customarily performed, that enable an applicant or employee affected by pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth to be considered for the position the applicant desires or to perform the essential functions of that position, and may include, but is not limited to: more frequent or longer bathroom breaks, breaks for increased water intake, and breaks for periodic rest; private non-bathroom space for expressing breast milk and breastfeeding; seating; assistance with manual labor; light duty; temporary transfer to a less strenuous or hazardous position; the provision of an accessible worksite; acquisition or modification of equipment; job restructuring; a part-time or modified work schedule; appropriate adjustment or modifications of examinations, training materials, or policies; reassignment to a vacant position; time off to recover from conditions related to childbirth; and leave necessitated by pregnancy, childbirth, or medical or common conditions resulting from pregnancy or childbirth.

"Undue hardship" means an action that is prohibitively expensive or disruptive when considered in light of the following factors: (i) the nature and cost of the accommodation needed; (ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at the facility, the effect on expenses and resources, or the impact otherwise of the accommodation upon the operation of the facility; (iii) the overall financial resources

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of the employer, the overall size of the business of the employer with respect to the number of its employees, and the number, type, and location of its facilities; and (iv) the type of operation or operations of the employer, including the composition, structure, and functions of the workforce of the employer, the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer. The employer has the burden of proving undue hardship. The fact that the employer provides or would be required to provide a similar accommodation to similarly situated employees creates a rebuttable presumption that the accommodation does not impose an undue hardship on the employer.

(b) It shall be a violation of this section:

i) If after a job applicant or employee, including a part-time, full-time, or probationary employee, requests a reasonable accommodation, for an employer to not make reasonable accommodations for any medical or common condition of a job applicant or employee related to pregnancy or childbirth, unless the employer can demonstrate that the accommodation would impose an undue hardship on the ordinary operation of the business of the employer. The employer may request documentation from the employee's health care provider concerning the need for the requested reasonable accommodation or accommodations to the same extent documentation is requested for conditions related to disability if the employer's request for documentation is job-related and consistent with business necessity. The employer may require only the medical justification for the requested accommodation or accommodations, a description of the reasonable accommodation or accommodations medically advisable, the date the reasonable accommodation or accommodations became medically advisable, and the probable duration of the reasonable accommodation or accommodations. It is the duty of the individual seeking a reasonable accommodation or accommodations to submit to the employer any documentation that is requested in accordance with this paragraph-Notwithstanding the provisions of this paragraph, the employer may require documentation by the employee's health care provider to determine compliance with other laws. The employee and employer shall engage in a timely, good faith, and meaningful exchange to determine effective reasonable accommodations.

ii) For an employer to deny employment opportunities or benefits to or take adverse action against an otherwise qualified job applicant or employee, including a part-time, full-time, or probationary employee, if the denial or adverse action is based on the need of the employer to make reasonable accommodations to the known medical or common conditions related to the pregnancy or childbirth of the applicant or employee.

iii) For an employer to require a job applicant or employee, including a part-time, full-time, or probationary employee, affected by pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth to accept an accommodation when the applicant or employee did not request an accommodation and the applicant or employee chooses not to accept the employer's accommodation.

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iv) For an employer to require an employee, including a part-time, full-time, or probationary employee, to take leave under any leave law or policy of the employer if another reasonable accommodation can be provided to the known medical or common conditions related to the pregnancy or childbirth of an employee. No employer shall fail or refuse to reinstate the employee affected by pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other applicable service credits upon her signifying her intent to return or when her need for reasonable accommodation ceases, unless the employer can demonstrate that the accommodation would impose an undue hardship on the ordinary operation of the business of the employer.

v) For an employer to fail to post or keep posted in a conspicuous location on the premises of the employer where notices to employees are customarily posted, or fail to include in any employee handbook information concerning an employee's rights under this Article, a notice, to be prepared or approved by the Chicago commission on human relations, summarizing the requirements of this section and information pertaining to the filing of a complaint, including the right to be free from unlawful discrimination and the right to certain reasonable accommodations. The commission shall make the documents required under this subsection available for retrieval from the commission's website.

(c) No employer is required by this section to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation. The employer is not required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job, unless the employer does so or would do so to accommodate other classes of employees who need it.

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SECTION 3. This ordinance shall be in full force and effect upon its passage and publication.