

# PREGNANCY and your RIGHTS in the WORKPLACE

## A. Effective January 1, 2015, P.A. 98-1050 amends the Illinois Human Rights Act (775 ILCS 5/1 et seq.) to create additional protections for pregnant employees.

- Public Act 98-1050 applies to any employer employing 1 or more employees.
- Public Act 98-1050 protects part-time, full-time, and probationary employees, as well as job applicants.
- Public Act 98-1050 covers employees who are pregnant, have recently given birth, or who have a medical or common condition related to their pregnancy or childbirth.

## B. Under Public Act 98-1050, it is illegal for an employer to:

- Refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment, fringe benefits on the basis of pregnancy;
- Fail to reasonably accommodate a pregnant employee unless the accommodation will impose an undue hardship;
- Deny employment opportunities or benefits to or take adverse action against an otherwise qualified job applicant or employee if the denial or adverse action is based on the need of the employer to make reasonable accommodations to a pregnant employee;
- Require a pregnant employee to accept an accommodation which the employee did not request and the employee chooses to decline;
- Require an employee to take leave under any leave law or policy of the employer if another reasonable accommodation can be provided to the employee;
- Fail to reinstate the pregnant employee 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 of reinstating the employee will impose an undue hardship on the ordinary operations of the employer;
- Fail to post or keep posted in a conspicuous location on the premises of the employer, or fail to include in any employee handbook information concerning an employee's rights under P.A. 98-1050; and
- Retaliate against an employee because the employee requested or was provided a reasonable accommodation.

## C. Reasonable accommodation

- The burden is on the employee to make the request;
- Once the employee makes the request, the burden shifts to the employer to grant the accommodation unless that employer can show that the accommodation would impose an undue hardship on the ordinary operation of the business of the employer;
- An accommodation would impose an undue hardship on the ordinary operation of the business of the employer if granting the accommodation would be prohibitively expensive or disruptive when considered in light of the following factors:
  - (1) The nature and cost of the accommodation needed;
  - (2) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed by the facility, the effect on expenses and resources, or the impact otherwise of the accommodation upon the operation of the facility;
  - (3) The overall financial resources of the employer with respect to the number of its employees, and the number, type, and location of its facilities; and
  - (4) 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.
- A reasonable accommodation is a reasonable modification or adjustment 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 to be considered for the position or to perform the essential functions of that position. Examples include:

- (1) More frequent or longer bathroom breaks;
  - (2) Breaks for increased water intake;
  - (3) Breaks for periodic rests;
  - (4) Private non-bathroom space for expressing breast milk and breastfeeding;
  - (5) Seating;
  - (6) Assistance with manual labor;
  - (7) Light duty;
  - (8) Temporary transfer to a less strenuous or hazardous position;
  - (9) The provision of an accessible worksite;
  - (10) Acquisition or modification of equipment;
  - (11) Job restructuring;
  - (12) A part-time or modified work schedule;
  - (13) Appropriate adjustment or modifications of examinations, training materials, or policies;
  - (14) Reassignment to a vacant position;
  - (15) Time off to recover from pregnancy; and
  - (16) Leave necessitated by pregnancy.
- The employer and the employee must engage in a timely, good faith, and meaningful exchange to determine effective reasonable accommodation.
  - An employer is not required 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.
  - An 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.

#### **D. Medical Documentation**

- In response to a request for an accommodation, an employer can ask that the employee provide documentation from the employee's healthcare provider if:
  - (1) The employer also requests similar documentation for conditions related to a disability;
  - (2) The request is job-related and consistent with business necessity; and
  - (3) The request is limited to information concerning:
    - (i) The need or medical justification for the requested accommodation;
    - (ii) A description of the reasonable accommodation medically advisable;
    - (iii) The date the reasonable accommodation became medically advisable; and
    - (iv) The probable duration of the reasonable accommodation.
- If an employer requests documentation which it is entitled to under P.A. 98-1050, an employee requesting the accommodation must submit to the employer the documentation requested.
- Nothing in P.A. 98-1050 prohibits an employer from requesting documentation from the employee's healthcare provider to determine compliance with other laws.

**For immediate help or if you have questions regarding your rights, call (312) 814-6200 or (217) 785-5100 or (866) 740-3953 (TTY)**

#### **CHICAGO OFFICE**

100 W. Randolph Street, 10th Floor  
Intake Unit  
Chicago, IL 60601  
(312) 814-6200

#### **SPRINGFIELD OFFICE**

222 South College, Room 101-A  
Intake Unit  
Springfield, IL 62704  
(217) 785-5100

#### **MARION OFFICE**

2309 West Main Street, Suite 112  
Intake Unit  
Marion, IL 62959  
(618) 993-7463

**The charge process may be initiated by completing the form at: <http://www.illinois.gov/dhr>**

