

Legislation Text

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Amending Chapter 9-1100 of The Philadelphia Code, entitled “Fair Practices Ordinance: Protections Against Unlawful Discrimination,” by requiring reasonable workplace accommodations for employees who have needs related to pregnancy, childbirth, or a related medical condition and making technical changes, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-1100 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 9-1100. FAIR PRACTICES ORDINANCE:
PROTECTIONS AGAINST UNLAWFUL DISCRIMINATION

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§ 9-1101. Legislative Findings.

(1) The Council finds that:

(a) The population of the City consists of people of every race, ethnicity, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, age, disability, marital status, and familial status. Many of these people are discriminated against in employment opportunities, public accommodations and obtaining adequate housing facilities. There are also members of the City population who are discriminated against based on their sources of income, as a result of their genetic information, [or] because they are victims of domestic or sexual [violence] *violence, or need reasonable accommodations in the workplace related to pregnancy, childbirth, or a related medical condition.*

* * *

(e) In order to assure that all persons regardless of race, ethnicity, color, sex (*including pregnancy, childbirth, or a related medical condition*), sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familial status, genetic information and domestic or sexual violence victim status enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and use of public accommodation facilities, it is necessary that appropriate legislation be enacted.

§ 9-1102. Definitions.

(1) For purposes of this Chapter the following terms shall have the following meanings:

* * *

(e) Discrimination. Any direct or indirect practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, differentiation or preference in the treatment of a person on the basis of actual or perceived race, ethnicity, color, sex (*including pregnancy, childbirth, or a related medical condition*), sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familial status, genetic information or domestic or sexual violence victim status, or other act or practice made unlawful under this Chapter or under the nondiscrimination laws of the United States or the Commonwealth of Pennsylvania.

* * *

§ 9-1103. Unlawful Employment Practices.

(1) It shall be an unlawful employment practice to deny or interfere with the employment opportunities of an individual based upon his or her race, ethnicity, color, sex (*including pregnancy, childbirth, or a related medical condition*), sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, familial status, genetic information, or domestic or sexual violence victim status, including, but not limited to, the following:

* * *

(l) *For any employer to fail to provide reasonable accommodations to the needs of an employee for her pregnancy, childbirth, or a related medical condition, as required by Section 9-1128.*

* * *

§ 9-1128. *Unlawful Employment Practices Based Upon Pregnancy, Childbirth and Related Medical Conditions.*

(1) *It shall be an unlawful discriminatory employment practice for an employer to fail to provide reasonable accommodations to an employee for needs related to pregnancy, childbirth, or a related medical condition, provided (i) the employee requests such accommodations and (ii) such accommodations will not cause an undue hardship to the employer.*

(a) *For purposes of this Section 9-1128, “reasonable accommodation” shall mean an accommodation that can be made by an employer in the workplace that will allow the employee to perform the essential functions of the job. Reasonable accommodations include, but are not limited to, restroom breaks, periodic rest for those who stand for long periods of time, assistance with manual labor, leave for a period of disability arising from childbirth, reassignment to a vacant position, and job restructuring.*

(2) *Undue Hardship. The employer shall have the burden of proving undue hardship. For purposes of this Section 9-1128, factors to be considered in making a determination of undue hardship shall include, but not be limited to the following:*

(a) *The nature and cost of the accommodations;*

(b) *The overall financial resources of the employer’s facility or facilities involved in the provision of the reasonable accommodations, including the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodations upon the operation of the*

employer;

(c) *The overall financial resources of the employer, including the size of the employer with respect to the number of its employees and the number, type and location of its facilities; and*

(d) *The type of operation or operations of the employer, including the composition, structure and functions of the workforce, the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.*

(3) *Affirmative Defense. In any case where the need for reasonable accommodations under this Section is placed in issue, it shall be an affirmative defense that the person aggrieved by he alleged discriminatory practice could not, with reasonable accommodations, satisfy the requisites of the job.*

(4) *Notice of Rights. The employer shall provide written notice, in a form and manner to be determined by the Commission, of the right to be free from discrimination in relation to pregnancy, childbirth and related medical conditions and the right to reasonable accommodations related to pregnancy, childbirth and related medical conditions under this Section, to all new and existing employees within 90 days of the effective date of this Section. Such notice may also be posted conspicuously at an employer's place of business in an area accessible to employees.*

(5) *Education. The Commission is authorized to develop courses of instruction and conduct ongoing public education, as necessary, to inform employers, employees, employment agencies and job applicants about their rights and responsibilities under this Section.*

(6) *Relationship to Other Laws. This Section shall not be construed to affect any other provision of law relating to sex discrimination or pregnancy, or in any way diminish the coverage of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth under any other provision of law.*

[§ 9-1128.] § 9-1129.

* * *

SECTION 2. This Ordinance shall become effective immediately.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.