

By: Rodriguez of Travis

H.B. No. 1281

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requiring reasonable workplace accommodations for and  
3 prohibiting discrimination against employees or applicants for  
4 employment with limitations related to pregnancy, childbirth, or a  
5 related medical condition.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter C, Chapter 21, Labor Code, is amended  
8 by adding Section 21.1285 to read as follows:

9 Sec. 21.1285. REASONABLE WORKPLACE ACCOMMODATION FOR  
10 PERSONS WITH LIMITATIONS RELATED TO PREGNANCY, CHILDBIRTH, OR  
11 RELATED MEDICAL CONDITION; GOOD FAITH EFFORT. (a) This section  
12 applies only to an employee or applicant for employment who has a  
13 known limitation related to pregnancy, childbirth, or a related  
14 medical condition.

15 (b) It is an unlawful employment practice for a respondent  
16 covered under this chapter to:

17 (1) fail or refuse to make a reasonable workplace  
18 accommodation to a known limitation of an individual described by  
19 Subsection (a), unless the respondent demonstrates that the  
20 workplace accommodation would impose an undue hardship on the  
21 operation of the business of the respondent;

22 (2) take retaliatory personnel action or otherwise  
23 discriminate against an employee because the employee:

24 (A) requests or uses a workplace accommodation in

1 accordance with this section; or

2 (B) files a complaint with the commission  
3 alleging the employer's violation of this section;

4 (3) deny an employment opportunity to an individual  
5 described by Subsection (a) if the denial is based on the need of  
6 the respondent to make a reasonable workplace accommodation to the  
7 known limitation of the individual described by that subsection;

8 (4) require an individual described by Subsection (a)  
9 to accept a workplace accommodation that the individual chooses not  
10 to accept; or

11 (5) require an individual described by Subsection (a)  
12 who is an employee to take leave under leave law or a policy of the  
13 respondent if it was possible to provide another reasonable  
14 workplace accommodation to the employee.

15 (c) An employer shall engage in a timely, good faith, and  
16 interactive process with an individual described by Subsection (a)  
17 to determine an effective reasonable workplace accommodation.

18 (d) For purposes of this section, a reasonable workplace  
19 accommodation may include:

20 (1) providing the employee more frequent or longer  
21 breaks;

22 (2) providing the employee time off to recover from  
23 childbirth;

24 (3) acquiring or modifying equipment;

25 (4) allowing the employee to perform job functions  
26 while seated;

27 (5) temporarily transferring the employee to a less

1 strenuous or hazardous position;

2 (6) restructuring the employee's job;

3 (7) assigning the employee to light duty;

4 (8) providing the employee adequate break time and  
5 private space in a location other than a bathroom for expressing  
6 breast milk;

7 (9) assisting the employee with manual labor; and

8 (10) modifying the employee's work schedule.

9 (e) This section does not require an employer to:

10 (1) create additional employment positions that the  
11 employer would not have otherwise created, unless the employer does  
12 so or would do so for other classes of employees who need workplace  
13 accommodation; or

14 (2) discharge any employee, transfer any employee with  
15 more seniority, or promote any employee who is not qualified to  
16 perform the job, unless the employer does so or would do so to  
17 accommodate other classes of employees who need workplace  
18 accommodation.

19 (f) A respondent who raises the defense of undue hardship  
20 bears the burden of establishing that an undue hardship exists in  
21 relation to:

22 (1) the nature and cost of the workplace  
23 accommodation;

24 (2) the overall financial resources of the employer;

25 (3) the effect on expenses and resources or any other  
26 impact of the workplace accommodation on the operation of the  
27 employer; and

1           (4) the overall size of the business of the employer  
2 with respect to the number of employees and the number, type, and  
3 location of its facilities.

4           (g) Each employer shall inform its employees of their rights  
5 under this section by:

6           (1) posting a conspicuous sign in a prominent location  
7 in the employer's workplace; and

8           (2) providing written notice to each employee:

9           (A) on the employee's hire; and

10           (B) not later than the 10th day after the date the  
11 employee informs the employer that the employee is pregnant.

12           (h) The commission shall develop courses of instruction and  
13 conduct ongoing public education efforts as necessary to inform  
14 employers, employees, employment agencies, and job applicants  
15 about their respective rights and duties under this section.

16           (i) This section does not diminish the employment  
17 protection for pregnancy, childbirth, or a medical condition  
18 related to pregnancy or childbirth provided under any other  
19 provision of this chapter or other law.

20           SECTION 2. (a) Except as provided by Subsection (b) of this  
21 section, the change in law made by this Act applies only to a claim  
22 of discrimination based on conduct that occurs on or after the  
23 effective date of this Act. A claim of discrimination that is based  
24 on conduct that occurs before the effective date of this Act is  
25 governed by the law in effect on the date the conduct occurred, and  
26 the former law is continued in effect for that purpose.

27           (b) The change in law made by Section 21.1285(g)(2)(A),

1 Labor Code, as added by this Act, requiring an employer to provide  
2 written notice of an employee's rights under Section 21.1285, Labor  
3 Code, at the time the employee is hired, applies to an employee  
4 hired on or after the effective date of this Act. For an employee  
5 hired before that date, the employer must give the written notice  
6 required by that section to the employee before December 1, 2015.

7 SECTION 3. This Act takes effect September 1, 2015.