WEST VIRGINIA CODE CHAPTER 16b ARTICLE 19

WV Legislature

§16B-19-1. Short title.

This article may be cited as the Pregnant Workers' Fairness Act.

WV Legislature

§16B-19-2. Nondiscrimination with regard to reasonable accommodations related to pregnancy.

It shall be an unlawful employment practice for a covered entity to:

(1) Not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a job applicant or employee, following delivery by the applicant or employee of written documentation from the applicant's or employee's health care provider that specifies the applicant's or employee's limitations and suggesting what accommodations would address those limitations, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;

(2) Deny employment opportunities to a job applicant or employee, if such denial is based on the refusal of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of an employee or applicant;

(3) Require a job applicant or employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation that such applicant or employee chooses not to accept; or

(4) Require an employee to take leave under any leave law or policy of the covered entity if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of an employee.

WV Legislature

§16B-19-3. Remedies and enforcement.

(a) The powers, procedures, and remedies provided in §16B-19-11 of this code to the Commission, the Attorney General, or any person, alleging a violation of the West Virginia Human Rights Act shall be the powers, procedures, and remedies this article provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this article against an employee or job applicant.

(b) No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this article or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this article. The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

WV Legislature

§16B-19-4. Rule-making.

Not later than two years after the date of enactment of this article, the Commission shall propose legislative rules in accordance with §29A-3-1 of this code, to carry out this article. Such rules shall identify some reasonable accommodations addressing known limitations related to pregnancy, childbirth, or related medical conditions that shall be provided to a job applicant or employee affected by such known limitations unless the covered entity can demonstrate that doing so would impose an undue hardship.

WV Legislature

§16B-19-5. Definitions.

As used in this article:

(1) "Attorney General" means the West Virginia Attorney General;

(2) "Commission" means the West Virginia Human Rights Commission;

(3) "Covered entity" has the meaning given the word employer in §16B-17-3 of this code;

(4) "Person" has the meaning given the word in section three, article eleven of this chapter; and

(5) "Reasonable accommodation" and "undue hardship" have the meanings given those terms in section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111) and shall be construed as such terms have been construed under such Act and as set forth in the rules required by this article.

WV Legislature

§16B-19-6. Reports.

The Commission shall on October 1 of each year report to the Joint Committee on Government and Finance on the number of complaints filed under this article during the previous year and their resolution. The report shall be transmitted to the members of the committee electronically. Further, the report shall be provided to the legislative librarian to be posted to the legislative website. No hard copy of the report shall be issued; however, a member shall be provided a hard copy upon request.

WV Legislature

§16B-19-7. Relationship to other laws.

Nothing in this article shall be construed to invalidate or limit the remedies, rights, and procedures that provides greater or equal protection for workers affected by pregnancy, childbirth, or related medical conditions.

WV Legislature