

**FILED**

**2014 MAR 21 A 10: 20**

**OFFICE WEST VIRGINIA  
SECRETARY OF STATE**

**WEST VIRGINIA LEGISLATURE**  
**SECOND REGULAR SESSION, 2014**



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR**

**House Bill No. 4284**

**(By Delegates Perdue, Fleischauer, Barrett,  
Caputo, Guthrie, Kinsey, Lawrence, Manchin,  
Skinner, Sponaugle and Young)**



**Passed March 6, 2014**

**In effect ninety days from passage.**

*HB 4284*

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**H. B. 4284**

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**(BY DELEGATES PERDUE, FLEISCHAUER, BARRETT,  
CAPUTO, GUTHRIE, KINSEY, LAWRENCE, MANCHIN,  
SKINNER, SPONAUGLE AND YOUNG)**

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**AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-11B-1, §5-11B-2, §5-11B-3, §5-11B-4, §5-11B-5, §5-11B-6 and §5-11B-7, all relating to creating the Pregnant Workers' Fairness Act; defining unlawful employment practices; establishing remedies and enforcement for discriminatory conduct; authorizing rule-making by the West Virginia Human Rights Commission; establishing the relationship of the article to other laws; and requiring a report to the Joint Committee on Government and Finance.**



*Be it enacted by the Legislature of West Virginia:*

OS 3 A  
That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §5-11B-1, §5-11B-2, §5-11B-3, §5-11B-4, §5-11B-5, §5-11B-6 and §5-11B-7, all to read as follows:

**ARTICLE 11B. PREGNANT WORKERS' FAIRNESS ACT.**

**§5-11B-1. Short title.**

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

**§5-11B-2. Nondiscrimination with regard to reasonable accommodations related to pregnancy.**

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

3        (1) Not make reasonable accommodations to the known  
4 limitations related to the pregnancy, childbirth, or related  
5 medical conditions of a job applicant or employee, following  
6 delivery by the applicant or employee of written documentation  
7 from the applicant's or employee's health care provider that  
8 specifies the applicant's or employee's limitations and suggest-  
9 ing what accommodations would address those limitations,  
10 unless such covered entity can demonstrate that the accommoda-  
11 tion would impose an undue hardship on the operation of the  
12 business of such covered entity;

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

18        (3) Require a job applicant or employee affected by preg-  
19 nancy, childbirth, or related medical conditions to accept an

20 accommodation that such applicant or employee chooses not to  
21 accept; or

22 (4) Require an employee to take leave under any leave law  
23 or policy of the covered entity if another reasonable accommoda-  
24 tion can be provided to the known limitations related to the  
25 pregnancy, childbirth, or related medical conditions of an  
26 employee.

**§5-11B-3. Remedies and enforcement.**

1 (a) The powers, procedures, and remedies provided in article  
2 eleven of this chapter to the Commission, the Attorney General,  
3 or any person, alleging a violation of the West Virginia Human  
4 Rights Act shall be the powers, procedures, and remedies this  
5 article provides to the Commission, the Attorney General, or any  
6 person, respectively, alleging an unlawful employment practice  
7 in violation of this article against an employee or job applicant.

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

**§5-11B-4. Rule-making.**

1 Not later than two years after the date of enactment of this  
2 article, the Commission shall propose legislative rules in  
3 accordance with article three, chapter twenty-nine-A of this  
4 code, to carry out this article. Such rules shall identify some  
5 reasonable accommodations addressing known limitations  
6 related to pregnancy, childbirth, or related medical conditions  
7 that shall be provided to a job applicant or employee affected by

8 such known limitations unless the covered entity can demon-  
9 strate that doing so would impose an undue hardship.

**§5-11B-5. Definitions.**

1 As used in this article:

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

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

6 (3) "Covered entity" has the meaning given the word  
7 employer in section three, article eleven of this chapter;

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

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

**§5-11B-6. Relationship to other laws.**

1 Nothing in this article shall be construed to invalidate or  
2 limit the remedies, rights, and procedures that provides greater  
3 or equal protection for workers affected by pregnancy, child-  
4 birth, or related medical conditions.

**§5-11B-7. Reports.**

1 The Commission shall annually on October 1 of each year  
2 report to the Joint Committee on Government and Finance on the  
3 number of complaints filed under this article during the pervious  
4 year and their resolution.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
\_\_\_\_\_  
Chairman, House Committee

  
\_\_\_\_\_  
Chairman, Senate Committee

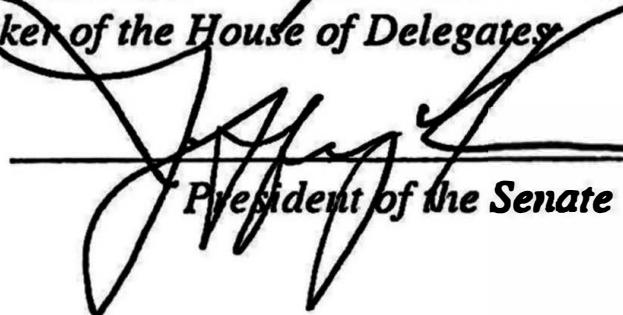
Originating in the House.

In effect ninety days from passage.

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

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SECRETARY OF STATE

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FILED

The within is approved this the 21st  
day of March, 2014.

  
\_\_\_\_\_  
Governor

**PRESENTED TO THE GOVERNOR**

MAR 17 2014

Time 3:30 pm