



January 29, 2020

SENATE BILL No. 342

DIGEST OF SB 342 (Updated January 27, 2020 2:27 pm - DI 136)

Citations Affected: IC 22-9.

Synopsis: Pregnancy accommodation. Requires an employer to provide reasonable employment accommodations for a pregnant employee. Requires the civil rights commission to investigate complaints and attempt to resolve complaints through the use of an administrative law judge. Allows for appeals.

Effective: July 1, 2020.

**Alting, Bohacek, Grooms, Ford J.D.,
Becker, Crider, Ford Jon, Walker,
Donato, Melton, Taylor G, Lanane,
Tallian, Randolph Lonnie M**

January 13, 2020, read first time and referred to Committee on Family and Children Services.
January 28, 2020, amended, reported favorably — Do Pass.

SB 342—LS 7043/DI 132



January 29, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 342

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-9-12 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]:
4 **Chapter 12. Pregnancy and Childbirth Accommodation**
5 **Sec. 1. This chapter applies only to an employer who employs**
6 **fifteen (15) or more persons.**
7 **Sec. 2. "Commission" means the civil rights commission created**
8 **by IC 22-9-1-4.**
9 **Sec. 3. "Complaint" has the meaning set forth in IC 22-9-1-3(o).**
10 **Sec. 4. Subject to section 1 of this chapter, "employer" has the**
11 **meaning set forth in IC 22-9-1-3(h).**
12 **Sec. 5. "Pregnancy" or "pregnant" includes pregnancy,**
13 **childbirth, or related medical conditions.**
14 **Sec. 6. (a) "Reasonable accommodation" means a modification**
15 **or adjustment to address medical needs related to pregnancy.**
16 **(b) Reasonable accommodations may include the following:**
17 **(1) More frequent or longer breaks.**

SB 342—LS 7043/DI 132



- 1 **(2) Unpaid time off work to recover from childbirth.**
- 2 **(3) Acquisition or modification of equipment.**
- 3 **(4) Seating.**
- 4 **(5) Temporary transfer to a less strenuous or less hazardous**
- 5 **position.**
- 6 **(6) Job restructuring.**
- 7 **(7) Light duty.**
- 8 **(8) Work break time for expressing breast milk.**
- 9 **(9) Private nonbathroom space for expressing breast milk.**
- 10 **(10) Assistance with physical or manual labor.**
- 11 **(11) Modified work schedules.**
- 12 **(12) An accommodation prescribed by a health provider.**
- 13 **Sec. 7. "Undue hardship" has the meaning set forth in**
- 14 **IC 22-9-5-18(a).**
- 15 **Sec. 8. It is the policy of the state of Indiana to require**
- 16 **employers to make reasonable accommodations for an employee**
- 17 **due to the pregnancy of the employee.**
- 18 **Sec. 9. An employer must:**
- 19 **(1) make a reasonable accommodation for the known**
- 20 **limitations of an employee related to the pregnancy of the**
- 21 **employee, unless the employer can demonstrate that the**
- 22 **accommodation would impose an undue hardship on the**
- 23 **employer;**
- 24 **(2) not take adverse action against an employee because the**
- 25 **employee has requested or used an accommodation for the**
- 26 **employee's pregnancy, including failing to reinstate the**
- 27 **employee to the employee's original job or an equivalent**
- 28 **position with equivalent pay, accumulated seniority,**
- 29 **retirement fringe benefits, and applicable service credits when**
- 30 **the employee's need for a reasonable accommodation ends;**
- 31 **(3) not deny an employment opportunity to a qualified**
- 32 **employee if the denial is the result of the employee having**
- 33 **requested a reasonable accommodation or an employer**
- 34 **having made a reasonable accommodation for the pregnancy**
- 35 **of the employee;**
- 36 **(4) not require an employee to accept an accommodation the**
- 37 **employee does not want to accept with respect to the**
- 38 **employee's pregnancy, if that accommodation is unnecessary**
- 39 **to enable the employee to perform the employee's job;**
- 40 **(5) not require an employee to take leave if another**
- 41 **reasonable accommodation can be provided for the**
- 42 **employee's pregnancy; or**



1 (6) engage with good faith in a timely and interactive process
2 with an employee who the employer knows has limitations
3 related to pregnancy to determine effective and reasonable
4 accommodations.

5 Sec. 10. (a) An employer shall provide written notice to:
6 (1) a new employee, at the commencement of employment;
7 and

8 (2) an existing employee, before November 1, 2020;
9 that the employee has the right to request reasonable
10 accommodations based on the employee's pregnancy, and that the
11 employer must make reasonable accommodations for the
12 employee's pregnancy unless doing so would impose an undue
13 hardship on the employer.

14 (b) Notice under this section must be conspicuously posted at the
15 employer's place of business in an area accessible to employees.

16 (c) The commission shall develop educational materials and
17 make public education efforts to inform employers, employees,
18 employment agencies, and job applicants of:

- 19 (1) employee rights; and
20 (2) duties of employers;

21 under this chapter.

22 Sec. 11. If an employee requests a reasonable accommodation
23 from the employer for the employee's pregnancy:

- 24 (1) the employer may request that an employee provide proof
25 of pregnancy from the employee's health provider; and
26 (2) the employee shall provide the employer with the proof of
27 pregnancy requested under subdivision (1).

28 Sec. 12. (a) Upon receipt of a complaint alleging a violation of
29 this chapter, the commission shall investigate and conduct
30 proceedings in accordance with this chapter.

31 (b) The commission shall assign an administrative law judge in
32 all pregnancy accommodation complaints and set an initial hearing
33 in front of the administrative law judge not later than fifteen (15)
34 days from receipt of the complaint by the commission for the
35 purpose of determining the appropriateness of temporary relief.
36 The administrative law judge may order appropriate temporary or
37 preliminary relief, including ordering that an employer
38 immediately provide the requested reasonable accommodation,
39 pending final disposition of the complaint.

40 (c) At the conclusion of the investigation, the commission shall
41 determine if a violation of this chapter exists.

42 (d) When an employer is found under this section to have failed



1 to accommodate an employee who is pregnant, the commission
2 may order the employer to provide the reasonable accommodation
3 or any other relief provided in IC 22-9-1-6(j).

4 Sec. 13. (a) Except as provided in subsection (b), IC 4-21.5
5 governs a hearing under section 12 of this chapter.

6 (b) A proceeding under section 12 of this chapter may not
7 continue regarding an alleged violation after the filing of a civil
8 action.

9 (c) IC 22-9-8 governs appeal of a final order issued under
10 section 12 of this chapter.

11 Sec. 14. This chapter does not preempt, limit, diminish, or affect
12 other state or federal laws concerning sex discrimination,
13 pregnancy discrimination, or childbirth discrimination.



COMMITTEE REPORT

Madam President: The Senate Committee on Family and Children Services, to which was referred Senate Bill No. 342, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 4.

Page 5, delete line 1.

Page 5, line 5, delete "Discrimination" and insert "**Accommodation**".

Page 5, line 17, delete ", but are not".

Page 5, line 18, delete "limited to,".

Page 5, delete line 20.

Page 5, line 21, delete "(3) Time" and insert "**(2) Unpaid time**".

Page 5, line 22, delete "(4)" and insert "**(3)**".

Page 5, line 23, delete "(5)" and insert "**(4)**".

Page 5, line 24, delete "(6)" and insert "**(5)**".

Page 5, line 26, delete "(7)" and insert "**(6)**".

Page 5, line 27, delete "(8)" and insert "**(7)**".

Page 5, line 28, delete "(9)" and insert "**(8)**".

Page 5, line 29, delete "(10)" and insert "**(9)**".

Page 5, line 30, delete "(11)" and insert "**(10)**".

Page 5, line 31, delete "(12)" and insert "**(11)**".

Page 5, between lines 31 and 32, begin a new line block indented and insert:

"(12) An accommodation prescribed by a health provider."

Page 5, delete lines 34 through 39, begin a new paragraph and insert:

"Sec. 8. It is the policy of the state of Indiana to require employers to make reasonable accommodations for an employee due to the pregnancy of the employee.

Sec. 9. An employer must:"

Page 5, line 40, delete "fail to".

Page 6, line 3, after "(2)" insert "**not**".

Page 6, line 5, delete "but not limited to".

Page 6, line 11, after "(3)" insert "**not**".

Page 6, line 16, after "(4)" insert "**not**".

Page 6, line 20, after "(5)" insert "**not**".

Page 6, line 23, delete "fail to".

Page 6, line 28, after "employment;" insert "**and**".



Page 6, line 29, delete "and".

Page 6, delete lines 30 through 32.

Page 6, line 33, delete "be free from discrimination" and insert **"request reasonable accommodations"**.

Page 7, delete lines 3 through 14, begin a new paragraph and insert:

"Sec. 11. If an employee requests a reasonable accommodation from the employer for the employee's pregnancy:

(1) the employer may request that an employee provide proof of pregnancy from the employee's health provider; and

(2) the employee shall provide the employer with the proof of pregnancy requested under subdivision (1).

Sec. 12. (a) Upon receipt of a complaint alleging a violation of this chapter, the commission shall investigate and conduct proceedings in accordance with this chapter.

(b) The commission shall assign an administrative law judge in all pregnancy accommodation complaints and set an initial hearing in front of the administrative law judge not later than fifteen (15) days from receipt of the complaint by the commission for the purpose of determining the appropriateness of temporary relief. The administrative law judge may order appropriate temporary or preliminary relief, including ordering that an employer immediately provide the requested reasonable accommodation, pending final disposition of the complaint.

(c) At the conclusion of the investigation, the commission shall determine if a violation of this chapter exists.

(d) When an employer is found under this section to have failed to accommodate an employee who is pregnant, the commission may order the employer to provide the reasonable accommodation or any other relief provided in IC 22-9-1-6(j).

Sec. 13. (a) Except as provided in subsection (b), IC 4-21.5 governs a hearing under section 12 of this chapter.

(b) A proceeding under section 12 of this chapter may not continue regarding an alleged violation after the filing of a civil action.

(c) IC 22-9-8 governs appeal of a final order issued under section 12 of this chapter."

Page 7, line 15, delete "12." and insert "14."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 342 as introduced.)



GROOMS, Chairperson

Committee Vote: Yeas 7, Nays 2.

