



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB4292

Introduced 1/28/2020, by Rep. Will Guzzardi

#### SYNOPSIS AS INTRODUCED:

775 ILCS 5/2-101

775 ILCS 5/2-102

from Ch. 68, par. 2-102

Amends the Employment Article of the Illinois Human Rights Act. Provides that "citizenship status" includes, among other things, the status of being a person who is authorized by the federal government to work in the United States. Provides that it is a civil rights violation for an employer, for purposes of complying with federal employment eligibility requirements, to refuse to honor work authorization based upon the specific status or term of status that accompanies the authorization to work. Effective immediately.

LRB101 16614 LNS 65998 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by  
5 changing Sections 2-101 and 2-102 as follows:

6 (775 ILCS 5/2-101)

7 (Text of Section before amendment by P.A. 101-430)

8 Sec. 2-101. Definitions. The following definitions are  
9 applicable strictly in the context of this Article.

10 (A) Employee.

11 (1) "Employee" includes:

12 (a) Any individual performing services for  
13 remuneration within this State for an employer;

14 (b) An apprentice;

15 (c) An applicant for any apprenticeship.

16 For purposes of subsection (D) of Section 2-102 of this  
17 Act, "employee" also includes an unpaid intern. An unpaid  
18 intern is a person who performs work for an employer under  
19 the following circumstances:

20 (i) the employer is not committed to hiring the  
21 person performing the work at the conclusion of the  
22 intern's tenure;

23 (ii) the employer and the person performing the

1 work agree that the person is not entitled to wages for  
2 the work performed; and

3 (iii) the work performed:

4 (I) supplements training given in an  
5 educational environment that may enhance the  
6 employability of the intern;

7 (II) provides experience for the benefit of  
8 the person performing the work;

9 (III) does not displace regular employees;

10 (IV) is performed under the close supervision  
11 of existing staff; and

12 (V) provides no immediate advantage to the  
13 employer providing the training and may  
14 occasionally impede the operations of the  
15 employer.

16 (2) "Employee" does not include:

17 (a) (Blank);

18 (b) Individuals employed by persons who are not  
19 "employers" as defined by this Act;

20 (c) Elected public officials or the members of  
21 their immediate personal staffs;

22 (d) Principal administrative officers of the State  
23 or of any political subdivision, municipal corporation  
24 or other governmental unit or agency;

25 (e) A person in a vocational rehabilitation  
26 facility certified under federal law who has been

1 designated an evaluatee, trainee, or work activity  
2 client.

3 (B) Employer.

4 (1) "Employer" includes:

5 (a) Any person employing 15 or more employees  
6 within Illinois during 20 or more calendar weeks within  
7 the calendar year of or preceding the alleged  
8 violation;

9 (b) Any person employing one or more employees when  
10 a complainant alleges civil rights violation due to  
11 unlawful discrimination based upon his or her physical  
12 or mental disability unrelated to ability, pregnancy,  
13 or sexual harassment;

14 (c) The State and any political subdivision,  
15 municipal corporation or other governmental unit or  
16 agency, without regard to the number of employees;

17 (d) Any party to a public contract without regard  
18 to the number of employees;

19 (e) A joint apprenticeship or training committee  
20 without regard to the number of employees.

21 (2) "Employer" does not include any religious  
22 corporation, association, educational institution,  
23 society, or non-profit nursing institution conducted by  
24 and for those who rely upon treatment by prayer through  
25 spiritual means in accordance with the tenets of a  
26 recognized church or religious denomination with respect

1 to the employment of individuals of a particular religion  
2 to perform work connected with the carrying on by such  
3 corporation, association, educational institution, society  
4 or non-profit nursing institution of its activities.

5 (C) Employment Agency. "Employment Agency" includes both  
6 public and private employment agencies and any person, labor  
7 organization, or labor union having a hiring hall or hiring  
8 office regularly undertaking, with or without compensation, to  
9 procure opportunities to work, or to procure, recruit, refer or  
10 place employees.

11 (D) Labor Organization. "Labor Organization" includes any  
12 organization, labor union, craft union, or any voluntary  
13 unincorporated association designed to further the cause of the  
14 rights of union labor which is constituted for the purpose, in  
15 whole or in part, of collective bargaining or of dealing with  
16 employers concerning grievances, terms or conditions of  
17 employment, or apprenticeships or applications for  
18 apprenticeships, or of other mutual aid or protection in  
19 connection with employment, including apprenticeships or  
20 applications for apprenticeships.

21 (E) Sexual Harassment. "Sexual harassment" means any  
22 unwelcome sexual advances or requests for sexual favors or any  
23 conduct of a sexual nature when (1) submission to such conduct  
24 is made either explicitly or implicitly a term or condition of  
25 an individual's employment, (2) submission to or rejection of  
26 such conduct by an individual is used as the basis for

1 employment decisions affecting such individual, or (3) such  
2 conduct has the purpose or effect of substantially interfering  
3 with an individual's work performance or creating an  
4 intimidating, hostile or offensive working environment.

5 For purposes of this definition, the phrase "working  
6 environment" is not limited to a physical location an employee  
7 is assigned to perform his or her duties.

8 (E-1) Harassment. "Harassment" means any unwelcome conduct  
9 on the basis of an individual's actual or perceived race,  
10 color, religion, national origin, ancestry, age, sex, marital  
11 status, order of protection status, disability, military  
12 status, sexual orientation, pregnancy, unfavorable discharge  
13 from military service, or citizenship status that has the  
14 purpose or effect of substantially interfering with the  
15 individual's work performance or creating an intimidating,  
16 hostile, or offensive working environment. For purposes of this  
17 definition, the phrase "working environment" is not limited to  
18 a physical location an employee is assigned to perform his or  
19 her duties.

20 (F) Religion. "Religion" with respect to employers  
21 includes all aspects of religious observance and practice, as  
22 well as belief, unless an employer demonstrates that he is  
23 unable to reasonably accommodate an employee's or prospective  
24 employee's religious observance or practice without undue  
25 hardship on the conduct of the employer's business.

26 (G) Public Employer. "Public employer" means the State, an

1 agency or department thereof, unit of local government, school  
2 district, instrumentality or political subdivision.

3 (H) Public Employee. "Public employee" means an employee of  
4 the State, agency or department thereof, unit of local  
5 government, school district, instrumentality or political  
6 subdivision. "Public employee" does not include public  
7 officers or employees of the General Assembly or agencies  
8 thereof.

9 (I) Public Officer. "Public officer" means a person who is  
10 elected to office pursuant to the Constitution or a statute or  
11 ordinance, or who is appointed to an office which is  
12 established, and the qualifications and duties of which are  
13 prescribed, by the Constitution or a statute or ordinance, to  
14 discharge a public duty for the State, agency or department  
15 thereof, unit of local government, school district,  
16 instrumentality or political subdivision.

17 (J) Eligible Bidder. "Eligible bidder" means a person who,  
18 prior to contract award or prior to bid opening for State  
19 contracts for construction or construction-related services,  
20 has filed with the Department a properly completed, sworn and  
21 currently valid employer report form, pursuant to the  
22 Department's regulations. The provisions of this Article  
23 relating to eligible bidders apply only to bids on contracts  
24 with the State and its departments, agencies, boards, and  
25 commissions, and the provisions do not apply to bids on  
26 contracts with units of local government or school districts.

1 (K) Citizenship Status. "Citizenship status" means the  
2 status of being:

3 (1) a born U.S. citizen;

4 (2) a naturalized U.S. citizen;

5 (3) a U.S. national; or

6 (4) a person born outside the United States and not a  
7 U.S. citizen who is not an unauthorized alien and who is  
8 protected from discrimination under the provisions of  
9 Section 1324b of Title 8 of the United States Code, as now  
10 or hereafter amended.

11 (5) a person who is authorized by the federal  
12 government to work in the United States.

13 (Source: P.A. 100-43, eff. 8-9-17; 101-221, eff. 1-1-20.)

14 (Text of Section after amendment by P.A. 101-430)

15 Sec. 2-101. Definitions. The following definitions are  
16 applicable strictly in the context of this Article.

17 (A) Employee.

18 (1) "Employee" includes:

19 (a) Any individual performing services for  
20 remuneration within this State for an employer;

21 (b) An apprentice;

22 (c) An applicant for any apprenticeship.

23 For purposes of subsection (D) of Section 2-102 of this  
24 Act, "employee" also includes an unpaid intern. An unpaid  
25 intern is a person who performs work for an employer under



1 the following circumstances:

2 (i) the employer is not committed to hiring the  
3 person performing the work at the conclusion of the  
4 intern's tenure;

5 (ii) the employer and the person performing the  
6 work agree that the person is not entitled to wages for  
7 the work performed; and

8 (iii) the work performed:

9 (I) supplements training given in an  
10 educational environment that may enhance the  
11 employability of the intern;

12 (II) provides experience for the benefit of  
13 the person performing the work;

14 (III) does not displace regular employees;

15 (IV) is performed under the close supervision  
16 of existing staff; and

17 (V) provides no immediate advantage to the  
18 employer providing the training and may  
19 occasionally impede the operations of the  
20 employer.

21 (2) "Employee" does not include:

22 (a) (Blank);

23 (b) Individuals employed by persons who are not  
24 "employers" as defined by this Act;

25 (c) Elected public officials or the members of  
26 their immediate personal staffs;

1 (d) Principal administrative officers of the State  
2 or of any political subdivision, municipal corporation  
3 or other governmental unit or agency;

4 (e) A person in a vocational rehabilitation  
5 facility certified under federal law who has been  
6 designated an evaluatee, trainee, or work activity  
7 client.

8 (B) Employer.

9 (1) "Employer" includes:

10 (a) Any person employing one or more employees  
11 within Illinois during 20 or more calendar weeks within  
12 the calendar year of or preceding the alleged  
13 violation;

14 (b) Any person employing one or more employees when  
15 a complainant alleges civil rights violation due to  
16 unlawful discrimination based upon his or her physical  
17 or mental disability unrelated to ability, pregnancy,  
18 or sexual harassment;

19 (c) The State and any political subdivision,  
20 municipal corporation or other governmental unit or  
21 agency, without regard to the number of employees;

22 (d) Any party to a public contract without regard  
23 to the number of employees;

24 (e) A joint apprenticeship or training committee  
25 without regard to the number of employees.

26 (2) "Employer" does not include any place of worship,

1 religious corporation, association, educational  
2 institution, society, or non-profit nursing institution  
3 conducted by and for those who rely upon treatment by  
4 prayer through spiritual means in accordance with the  
5 tenets of a recognized church or religious denomination  
6 with respect to the employment of individuals of a  
7 particular religion to perform work connected with the  
8 carrying on by such place of worship, corporation,  
9 association, educational institution, society or  
10 non-profit nursing institution of its activities.

11 (C) Employment Agency. "Employment Agency" includes both  
12 public and private employment agencies and any person, labor  
13 organization, or labor union having a hiring hall or hiring  
14 office regularly undertaking, with or without compensation, to  
15 procure opportunities to work, or to procure, recruit, refer or  
16 place employees.

17 (D) Labor Organization. "Labor Organization" includes any  
18 organization, labor union, craft union, or any voluntary  
19 unincorporated association designed to further the cause of the  
20 rights of union labor which is constituted for the purpose, in  
21 whole or in part, of collective bargaining or of dealing with  
22 employers concerning grievances, terms or conditions of  
23 employment, or apprenticeships or applications for  
24 apprenticeships, or of other mutual aid or protection in  
25 connection with employment, including apprenticeships or  
26 applications for apprenticeships.

1           (E) Sexual Harassment. "Sexual harassment" means any  
2           unwelcome sexual advances or requests for sexual favors or any  
3           conduct of a sexual nature when (1) submission to such conduct  
4           is made either explicitly or implicitly a term or condition of  
5           an individual's employment, (2) submission to or rejection of  
6           such conduct by an individual is used as the basis for  
7           employment decisions affecting such individual, or (3) such  
8           conduct has the purpose or effect of substantially interfering  
9           with an individual's work performance or creating an  
10          intimidating, hostile or offensive working environment.

11          For purposes of this definition, the phrase "working  
12          environment" is not limited to a physical location an employee  
13          is assigned to perform his or her duties.

14          (E-1) Harassment. "Harassment" means any unwelcome conduct  
15          on the basis of an individual's actual or perceived race,  
16          color, religion, national origin, ancestry, age, sex, marital  
17          status, order of protection status, disability, military  
18          status, sexual orientation, pregnancy, unfavorable discharge  
19          from military service, or citizenship status that has the  
20          purpose or effect of substantially interfering with the  
21          individual's work performance or creating an intimidating,  
22          hostile, or offensive working environment. For purposes of this  
23          definition, the phrase "working environment" is not limited to  
24          a physical location an employee is assigned to perform his or  
25          her duties.

26          (F) Religion. "Religion" with respect to employers

1 includes all aspects of religious observance and practice, as  
2 well as belief, unless an employer demonstrates that he is  
3 unable to reasonably accommodate an employee's or prospective  
4 employee's religious observance or practice without undue  
5 hardship on the conduct of the employer's business.

6 (G) Public Employer. "Public employer" means the State, an  
7 agency or department thereof, unit of local government, school  
8 district, instrumentality or political subdivision.

9 (H) Public Employee. "Public employee" means an employee of  
10 the State, agency or department thereof, unit of local  
11 government, school district, instrumentality or political  
12 subdivision. "Public employee" does not include public  
13 officers or employees of the General Assembly or agencies  
14 thereof.

15 (I) Public Officer. "Public officer" means a person who is  
16 elected to office pursuant to the Constitution or a statute or  
17 ordinance, or who is appointed to an office which is  
18 established, and the qualifications and duties of which are  
19 prescribed, by the Constitution or a statute or ordinance, to  
20 discharge a public duty for the State, agency or department  
21 thereof, unit of local government, school district,  
22 instrumentality or political subdivision.

23 (J) Eligible Bidder. "Eligible bidder" means a person who,  
24 prior to contract award or prior to bid opening for State  
25 contracts for construction or construction-related services,  
26 has filed with the Department a properly completed, sworn and

1 currently valid employer report form, pursuant to the  
2 Department's regulations. The provisions of this Article  
3 relating to eligible bidders apply only to bids on contracts  
4 with the State and its departments, agencies, boards, and  
5 commissions, and the provisions do not apply to bids on  
6 contracts with units of local government or school districts.

7 (K) Citizenship Status. "Citizenship status" means the  
8 status of being:

9 (1) a born U.S. citizen;

10 (2) a naturalized U.S. citizen;

11 (3) a U.S. national; or

12 (4) a person born outside the United States and not a  
13 U.S. citizen who is not an unauthorized alien and who is  
14 protected from discrimination under the provisions of  
15 Section 1324b of Title 8 of the United States Code, as now  
16 or hereafter amended.

17 (5) a person who is authorized by the federal  
18 government to work in the United States.

19 (Source: P.A. 100-43, eff. 8-9-17; 101-221, eff. 1-1-20;  
20 101-430, eff. 7-1-20; revised 9-18-19.)

21 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

22 Sec. 2-102. Civil rights violations - employment. It is a  
23 civil rights violation:

24 (A) Employers. For any employer to refuse to hire, to  
25 segregate, to engage in harassment as defined in subsection

1 (E-1) of Section 2-101, or to act with respect to  
2 recruitment, hiring, promotion, renewal of employment,  
3 selection for training or apprenticeship, discharge,  
4 discipline, tenure or terms, privileges or conditions of  
5 employment on the basis of unlawful discrimination or  
6 citizenship status. An employer is responsible for  
7 harassment by the employer's nonmanagerial and  
8 nonsupervisory employees only if the employer becomes  
9 aware of the conduct and fails to take reasonable  
10 corrective measures.

11 (A-5) Language. For an employer to impose a restriction  
12 that has the effect of prohibiting a language from being  
13 spoken by an employee in communications that are unrelated  
14 to the employee's duties.

15 For the purposes of this subdivision (A-5), "language"  
16 means a person's native tongue, such as Polish, Spanish, or  
17 Chinese. "Language" does not include such things as slang,  
18 jargon, profanity, or vulgarity.

19 (A-10) Harassment of nonemployees. For any employer,  
20 employment agency, or labor organization to engage in  
21 harassment of nonemployees in the workplace. An employer is  
22 responsible for harassment of nonemployees by the  
23 employer's nonmanagerial and nonsupervisory employees only  
24 if the employer becomes aware of the conduct and fails to  
25 take reasonable corrective measures. For the purposes of  
26 this subdivision (A-10), "nonemployee" means a person who

1 is not otherwise an employee of the employer and is  
2 directly performing services for the employer pursuant to a  
3 contract with that employer. "Nonemployee" includes  
4 contractors and consultants. This subdivision applies to  
5 harassment occurring on or after the effective date of this  
6 amendatory Act of the 101st General Assembly.

7 (B) Employment agency. For any employment agency to  
8 fail or refuse to classify properly, accept applications  
9 and register for employment referral or apprenticeship  
10 referral, refer for employment, or refer for  
11 apprenticeship on the basis of unlawful discrimination or  
12 citizenship status or to accept from any person any job  
13 order, requisition or request for referral of applicants  
14 for employment or apprenticeship which makes or has the  
15 effect of making unlawful discrimination or discrimination  
16 on the basis of citizenship status a condition of referral.

17 (C) Labor organization. For any labor organization to  
18 limit, segregate or classify its membership, or to limit  
19 employment opportunities, selection and training for  
20 apprenticeship in any trade or craft, or otherwise to take,  
21 or fail to take, any action which affects adversely any  
22 person's status as an employee or as an applicant for  
23 employment or as an apprentice, or as an applicant for  
24 apprenticeships, or wages, tenure, hours of employment or  
25 apprenticeship conditions on the basis of unlawful  
26 discrimination or citizenship status.



1           (D) Sexual harassment. For any employer, employee,  
2           agent of any employer, employment agency or labor  
3           organization to engage in sexual harassment; provided,  
4           that an employer shall be responsible for sexual harassment  
5           of the employer's employees by nonemployees or  
6           nonmanagerial and nonsupervisory employees only if the  
7           employer becomes aware of the conduct and fails to take  
8           reasonable corrective measures.

9           (D-5) Sexual harassment of nonemployees. For any  
10          employer, employee, agent of any employer, employment  
11          agency, or labor organization to engage in sexual  
12          harassment of nonemployees in the workplace. An employer is  
13          responsible for sexual harassment of nonemployees by the  
14          employer's nonmanagerial and nonsupervisory employees only  
15          if the employer becomes aware of the conduct and fails to  
16          take reasonable corrective measures. For the purposes of  
17          this subdivision (D-5), "nonemployee" means a person who is  
18          not otherwise an employee of the employer and is directly  
19          performing services for the employer pursuant to a contract  
20          with that employer. "Nonemployee" includes contractors and  
21          consultants. This subdivision applies to sexual harassment  
22          occurring on or after the effective date of this amendatory  
23          Act of the 101st General Assembly.

24          (E) Public employers. For any public employer to refuse  
25          to permit a public employee under its jurisdiction who  
26          takes time off from work in order to practice his or her

1 religious beliefs to engage in work, during hours other  
2 than such employee's regular working hours, consistent  
3 with the operational needs of the employer and in order to  
4 compensate for work time lost for such religious reasons.  
5 Any employee who elects such deferred work shall be  
6 compensated at the wage rate which he or she would have  
7 earned during the originally scheduled work period. The  
8 employer may require that an employee who plans to take  
9 time off from work in order to practice his or her  
10 religious beliefs provide the employer with a notice of his  
11 or her intention to be absent from work not exceeding 5  
12 days prior to the date of absence.

13 (E-5) Religious discrimination. For any employer to  
14 impose upon a person as a condition of obtaining or  
15 retaining employment, including opportunities for  
16 promotion, advancement, or transfer, any terms or  
17 conditions that would require such person to violate or  
18 forgo a sincerely held practice of his or her religion  
19 including, but not limited to, the wearing of any attire,  
20 clothing, or facial hair in accordance with the  
21 requirements of his or her religion, unless, after engaging  
22 in a bona fide effort, the employer demonstrates that it is  
23 unable to reasonably accommodate the employee's or  
24 prospective employee's sincerely held religious belief,  
25 practice, or observance without undue hardship on the  
26 conduct of the employer's business.

1           Nothing in this Section prohibits an employer from  
2           enacting a dress code or grooming policy that may include  
3           restrictions on attire, clothing, or facial hair to  
4           maintain workplace safety or food sanitation.

5           (F) Training and apprenticeship programs. For any  
6           employer, employment agency or labor organization to  
7           discriminate against a person on the basis of age in the  
8           selection, referral for or conduct of apprenticeship or  
9           training programs.

10          (G) Immigration-related practices.

11           (1) for an employer to request for purposes of  
12           satisfying the requirements of Section 1324a(b) of  
13           Title 8 of the United States Code, as now or hereafter  
14           amended, more or different documents than are required  
15           under such Section or to refuse to honor documents  
16           tendered that on their face reasonably appear to be  
17           genuine or to refuse to honor work authorization based  
18           upon the specific status or term of status that  
19           accompanies the authorization to work; or

20           (2) for an employer participating in the E-Verify  
21           Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot  
22           Programs for Employment Eligibility Confirmation  
23           (enacted by PL 104-208, div. C title IV, subtitle A) to  
24           refuse to hire, to segregate, or to act with respect to  
25           recruitment, hiring, promotion, renewal of employment,  
26           selection for training or apprenticeship, discharge,

1 discipline, tenure or terms, privileges or conditions  
2 of employment without following the procedures under  
3 the E-Verify Program.

4 (H) (Blank).

5 (I) Pregnancy. For an employer to refuse to hire, to  
6 segregate, or to act with respect to recruitment, hiring,  
7 promotion, renewal of employment, selection for training  
8 or apprenticeship, discharge, discipline, tenure or terms,  
9 privileges or conditions of employment on the basis of  
10 pregnancy, childbirth, or medical or common conditions  
11 related to pregnancy or childbirth. Women affected by  
12 pregnancy, childbirth, or medical or common conditions  
13 related to pregnancy or childbirth shall be treated the  
14 same for all employment-related purposes, including  
15 receipt of benefits under fringe benefit programs, as other  
16 persons not so affected but similar in their ability or  
17 inability to work, regardless of the source of the  
18 inability to work or employment classification or status.

19 (J) Pregnancy; reasonable accommodations.

20 (1) If after a job applicant or employee, including  
21 a part-time, full-time, or probationary employee,  
22 requests a reasonable accommodation, for an employer  
23 to not make reasonable accommodations for any medical  
24 or common condition of a job applicant or employee  
25 related to pregnancy or childbirth, unless the  
26 employer can demonstrate that the accommodation would

1 impose an undue hardship on the ordinary operation of  
2 the business of the employer. The employer may request  
3 documentation from the employee's health care provider  
4 concerning the need for the requested reasonable  
5 accommodation or accommodations to the same extent  
6 documentation is requested for conditions related to  
7 disability if the employer's request for documentation  
8 is job-related and consistent with business necessity.  
9 The employer may require only the medical  
10 justification for the requested accommodation or  
11 accommodations, a description of the reasonable  
12 accommodation or accommodations medically advisable,  
13 the date the reasonable accommodation or  
14 accommodations became medically advisable, and the  
15 probable duration of the reasonable accommodation or  
16 accommodations. It is the duty of the individual  
17 seeking a reasonable accommodation or accommodations  
18 to submit to the employer any documentation that is  
19 requested in accordance with this paragraph.  
20 Notwithstanding the provisions of this paragraph, the  
21 employer may require documentation by the employee's  
22 health care provider to determine compliance with  
23 other laws. The employee and employer shall engage in a  
24 timely, good faith, and meaningful exchange to  
25 determine effective reasonable accommodations.

26 (2) For an employer to deny employment

1 opportunities or benefits to or take adverse action  
2 against an otherwise qualified job applicant or  
3 employee, including a part-time, full-time, or  
4 probationary employee, if the denial or adverse action  
5 is based on the need of the employer to make reasonable  
6 accommodations to the known medical or common  
7 conditions related to the pregnancy or childbirth of  
8 the applicant or employee.

9 (3) For an employer to require a job applicant or  
10 employee, including a part-time, full-time, or  
11 probationary employee, affected by pregnancy,  
12 childbirth, or medical or common conditions related to  
13 pregnancy or childbirth to accept an accommodation  
14 when the applicant or employee did not request an  
15 accommodation and the applicant or employee chooses  
16 not to accept the employer's accommodation.

17 (4) For an employer to require an employee,  
18 including a part-time, full-time, or probationary  
19 employee, to take leave under any leave law or policy  
20 of the employer if another reasonable accommodation  
21 can be provided to the known medical or common  
22 conditions related to the pregnancy or childbirth of an  
23 employee. No employer shall fail or refuse to reinstate  
24 the employee affected by pregnancy, childbirth, or  
25 medical or common conditions related to pregnancy or  
26 childbirth to her original job or to an equivalent

1 position with equivalent pay and accumulated  
2 seniority, retirement, fringe benefits, and other  
3 applicable service credits upon her signifying her  
4 intent to return or when her need for reasonable  
5 accommodation ceases, unless the employer can  
6 demonstrate that the accommodation would impose an  
7 undue hardship on the ordinary operation of the  
8 business of the employer.

9 For the purposes of this subdivision (J), "reasonable  
10 accommodations" means reasonable modifications or  
11 adjustments to the job application process or work  
12 environment, or to the manner or circumstances under which  
13 the position desired or held is customarily performed, that  
14 enable an applicant or employee affected by pregnancy,  
15 childbirth, or medical or common conditions related to  
16 pregnancy or childbirth to be considered for the position  
17 the applicant desires or to perform the essential functions  
18 of that position, and may include, but is not limited to:  
19 more frequent or longer bathroom breaks, breaks for  
20 increased water intake, and breaks for periodic rest;  
21 private non-bathroom space for expressing breast milk and  
22 breastfeeding; seating; assistance with manual labor;  
23 light duty; temporary transfer to a less strenuous or  
24 hazardous position; the provision of an accessible  
25 worksite; acquisition or modification of equipment; job  
26 restructuring; a part-time or modified work schedule;

1 appropriate adjustment or modifications of examinations,  
2 training materials, or policies; reassignment to a vacant  
3 position; time off to recover from conditions related to  
4 childbirth; and leave necessitated by pregnancy,  
5 childbirth, or medical or common conditions resulting from  
6 pregnancy or childbirth.

7 For the purposes of this subdivision (J), "undue  
8 hardship" means an action that is prohibitively expensive  
9 or disruptive when considered in light of the following  
10 factors: (i) the nature and cost of the accommodation  
11 needed; (ii) the overall financial resources of the  
12 facility or facilities involved in the provision of the  
13 reasonable accommodation, the number of persons employed  
14 at the facility, the effect on expenses and resources, or  
15 the impact otherwise of the accommodation upon the  
16 operation of the facility; (iii) the overall financial  
17 resources of the employer, the overall size of the business  
18 of the employer with respect to the number of its  
19 employees, and the number, type, and location of its  
20 facilities; and (iv) the type of operation or operations of  
21 the employer, including the composition, structure, and  
22 functions of the workforce of the employer, the geographic  
23 separateness, administrative, or fiscal relationship of  
24 the facility or facilities in question to the employer. The  
25 employer has the burden of proving undue hardship. The fact  
26 that the employer provides or would be required to provide



1 a similar accommodation to similarly situated employees  
2 creates a rebuttable presumption that the accommodation  
3 does not impose an undue hardship on the employer.

4 No employer is required by this subdivision (J) to  
5 create additional employment that the employer would not  
6 otherwise have created, unless the employer does so or  
7 would do so for other classes of employees who need  
8 accommodation. The employer is not required to discharge  
9 any employee, transfer any employee with more seniority, or  
10 promote any employee who is not qualified to perform the  
11 job, unless the employer does so or would do so to  
12 accommodate other classes of employees who need it.

13 (K) Notice.

14 (1) For an employer to fail to post or keep posted  
15 in a conspicuous location on the premises of the  
16 employer where notices to employees are customarily  
17 posted, or fail to include in any employee handbook  
18 information concerning an employee's rights under this  
19 Article, a notice, to be prepared or approved by the  
20 Department, summarizing the requirements of this  
21 Article and information pertaining to the filing of a  
22 charge, including the right to be free from unlawful  
23 discrimination, the right to be free from sexual  
24 harassment, and the right to certain reasonable  
25 accommodations. The Department shall make the  
26 documents required under this paragraph available for

1 retrieval from the Department's website.

2 (2) Upon notification of a violation of paragraph  
3 (1) of this subdivision (K), the Department may launch  
4 a preliminary investigation. If the Department finds a  
5 violation, the Department may issue a notice to show  
6 cause giving the employer 30 days to correct the  
7 violation. If the violation is not corrected, the  
8 Department may initiate a charge of a civil rights  
9 violation.

10 (Source: P.A. 100-100, eff. 8-11-17; 100-588, eff. 6-8-18;  
11 101-221, eff. 1-1-20.)

12 Section 95. No acceleration or delay. Where this Act makes  
13 changes in a statute that is represented in this Act by text  
14 that is not yet or no longer in effect (for example, a Section  
15 represented by multiple versions), the use of that text does  
16 not accelerate or delay the taking effect of (i) the changes  
17 made by this Act or (ii) provisions derived from any other  
18 Public Act.

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.