

CITY OF BALTIMORE
COUNCIL BILL 25-0051
(First Reader)

Introduced by: Councilmembers Gray and Porter

Cosponsored by: Councilmembers Parker, Dorsey, Conway, Torrence, Bullock, Blanchard,
Jones, Ramos, Middleton, and President Cohen

Introduced and read first time: April 7, 2024

Assigned to: Labor and Workforce Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Office of Equity
and Civil Rights, Health Department, Department of Human Resources

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Labor and Employment – Pregnancy Accommodations**

3 FOR the purpose of requiring reasonable accommodations in the workplace for certain employees
4 upon request; protecting employees from adverse actions related to pregnancy, recovery from
5 childbirth, or a related condition; forbidding denial of employment opportunities based on
6 certain circumstances; establishing penalties for violations of required accommodations;
7 defining certain terms; and generally relating to protecting the rights of employees who are
8 pregnant or recovering from childbirth or a related condition.

9 BY repealing and re-ordaining, with amendments

10 Article 4 - Community Relations

11 Section 1-1(f)(3)

12 Baltimore City Code

13 (Edition 2000)

14 BY adding

15 Article 11 - Labor and Employment

16 Sections 20-1 through 20-11 and the new subtitle designation,

17 “Subtitle 20. Pregnancy Accommodations”

18 Baltimore City Code

19 (Edition 2000)

20 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
21 Laws of Baltimore City read as follows:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 25-0051

Baltimore City Code

Article 4. Community Relations

Subtitle 1. Definitions; General Provisions

§ 1-1. Definitions.

(f) *Discrimination.*

(3) However, it is not discrimination for:

(i) any religious or denominational institution to devote its facilities, exclusively or primarily, to or for members of its own religion or denomination or to give preference to those members or to make any selection as is calculated by the institution to promote the religious principles for which it is established or maintained;

(ii) an employer to disqualify a person with a physical or mental disability when the nature or extent of the disability makes the person unfit or unsuited for the job;

(iii) an educational institution to restrict its student body and student activities to one sex or the other;

(iv) an educational institution to provide special educational or recreational programs for individuals with a physical or mental disability; or

(v) any person to provide:

(A) separate toilet facilities for males and females; [or]

(B) lactation accommodations [for females in accord] IN ACCORDANCE with City Code Article 11, Subtitle 16 {"Lactation Accommodation in the [Workplace"]} WORKPLACE"; OR

(C) PREGNANCY ACCOMMODATIONS IN ACCORDANCE WITH CITY CODE ARTICLE 11, SUBTITLE 20 {"PREGNANCY ACCOMMODATIONS"}.

Article 11. Labor and Employment

SUBTITLE 20. PREGNANCY ACCOMMODATIONS

§ 20-1. DEFINITIONS.

(A) *IN GENERAL.*

IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) *ADVERSE ACTION.*

“ADVERSE ACTION” MEANS AN ACTION AN EMPLOYER TAKES OR REFUSES TO TAKE IN ORDER TO RETALIATE OR DISCRIMINATE AGAINST A PERSON FOR EXERCISING A RIGHT OR ALLEGING A VIOLATION UNDER THIS SUBTITLE.

(C) *APPLICANT.*

“APPLICANT” MEANS AN INDIVIDUAL APPLYING TO WORK FOR AN EMPLOYER IN BALTIMORE CITY.

(D) *COMMISSION.*

“COMMISSION” MEANS THE BALTIMORE COMMUNITY RELATIONS COMMISSION.

(E) *ELIGIBLE INDIVIDUAL.*

“ELIGIBLE INDIVIDUAL” MEANS AN EMPLOYEE OR APPLICANT WHO IS CURRENTLY PREGNANT, IS RECOVERING FROM A PREGNANCY, INCLUDING A PREGNANCY ENDING IN STILLBIRTH OR MISCARRIAGE, OR IS RECOVERING FROM A RELATED CONDITION.

(F) *EMPLOYEE.*

(1) *IN GENERAL.*

“EMPLOYEE” MEANS ANY INDIVIDUAL WHO WORKS FOR AN EMPLOYER IN BALTIMORE CITY.

(2) *EXCLUSIONS.*

“EMPLOYEE” DOES NOT INCLUDE:

- (I) AN INDIVIDUAL ENGAGED IN THE ACTIVITIES OF AN EDUCATIONAL, CHARITABLE, RELIGIOUS, OR OTHER NONPROFIT ORGANIZATION WHERE THE SERVICES RENDERED TO THAT ORGANIZATION ARE ON A VOLUNTARY BASIS OR IN RETURN FOR CHARITABLE AID CONFERRED ON THE INDIVIDUAL; OR
- (II) AN INDIVIDUAL WHO IS EMPLOYED BY THE INDIVIDUAL’S PARENT, SPOUSE, OR CHILD.

Council Bill 25-0051

1 (G) *EMPLOYER.*

2 (1) *IN GENERAL.*

3 “EMPLOYER” MEANS ANY INDIVIDUAL OR ORGANIZATION ENGAGED IN ANY BUSINESS
4 IN THE CITY OF BALTIMORE THAT EMPLOYS 2 OR MORE FULL-TIME EMPLOYEES.

5 (2) *EXCLUSIONS.*

6 “EMPLOYER” DOES NOT INCLUDE:

7 (I) THE FEDERAL GOVERNMENT OR ANY UNIT THEREOF; OR

8 (II) THE STATE GOVERNMENT OR ANY UNIT THEREOF.

9 (H) *REASONABLE ACCOMMODATION.*

10 (1) *IN GENERAL.*

11 “REASONABLE ACCOMMODATION” MEANS ANY PRACTICE OR ALLOWANCE MEANT TO
12 EASE THE WORK ENVIRONMENT FOR AN EMPLOYEE WHO IS PREGNANT, RECOVERING
13 FROM PREGNANCY, OR HAS A RELATED CONDITION.

14 (2) *INCLUSIONS.*

15 “REASONABLE ACCOMMODATION” INCLUDES:

16 (I) OFFERING AN ELIGIBLE INDIVIDUAL MORE FREQUENT OR LONGER BREAKS;

17 (II) ACQUIRING OR MODIFYING ACCESSIBLE EQUIPMENT OR SEATING;

18 (III) TEMPORARILY TRANSFERRING AN ELIGIBLE INDIVIDUAL TO A LESS STRENUOUS
19 OR HAZARDOUS POSITION, IF AVAILABLE, WITH RETURN TO THE CURRENT
20 POSITION AFTER PREGNANCY OR RECOVERY;

21 (IV) RESTRUCTURING OF AN ELIGIBLE INDIVIDUAL’S JOB;

22 (V) ASSIGNING AN ELIGIBLE INDIVIDUAL LIGHT DUTY;

23 (VI) PROVIDING AN ELIGIBLE INDIVIDUAL WITH ASSISTANCE WITH MANUAL LABOR;
24 OR

25 (VII) ALLOWING AN ELIGIBLE INDIVIDUAL TO TAKE A MODIFIED WORK SCHEDULE.

26 (3) *EXCLUSIONS.*

27 “REASONABLE ACCOMMODATION” DOES NOT INCLUDE:

28 (I) HIRING A NEW EMPLOYEE THAT AN EMPLOYER WOULD NOT OTHERWISE HAVE
29 HIRED;

Council Bill 25-0051

1 (II) DISCHARGING AN EMPLOYEE;

2 (III) TRANSFERRING AN EMPLOYEE WITH MORE SENIORITY THAN A PREGNANT OR
3 RECOVERING EMPLOYEE;

4 (IV) PROMOTING AN EMPLOYEE WHO IS NOT QUALIFIED TO PERFORM A NEW JOB;

5 (V) CREATING A NEW POSITION FOR AN ELIGIBLE INDIVIDUAL;

6 (VI) PROVIDING AN ELIGIBLE INDIVIDUAL LEAVE BEYOND THE AMOUNT THAT IS
7 PROVIDED TO SIMILARLY SITUATED EMPLOYEES.

8 (I) *UNDUE HARDSHIP*.

9 (1) *IN GENERAL*.

10 “UNDUE HARDSHIP” MEANS AN ACTION REQUIRED TO PROVIDE A REQUESTED
11 ACCOMMODATION THAT CREATES A SIGNIFICANT DIFFICULTY OR EXPENSE FOR AN
12 EMPLOYER.

13 (2) *FACTORS*.

14 WHEN AN EMPLOYER OR THE COMMISSION IS DETERMINING UNDUE HARDSHIP, THE
15 FOLLOWING FACTORS MAY BE CONSIDERED:

16 (I) THE NATURE AND COST OF AN ACCOMMODATION;

17 (II) THE OVERALL FINANCIAL RESOURCES OF AN EMPLOYER;

18 (III) THE OVERALL SIZE OF AN EMPLOYER’S ORGANIZATION, WITH RESPECT TO THE
19 NUMBER OF EMPLOYEES AND NUMBER, TYPE, AND LOCATION OF AN
20 EMPLOYER’S AVAILABLE FACILITIES;

21 (IV) AN ACCOMMODATION’S EFFECT ON AN EMPLOYER’S EXPENSES, RESOURCES, OR
22 OPERATIONS; AND

23 (V) WHETHER A PROVISION OF SIMILAR ACCOMMODATIONS HAS BEEN MADE TO
24 ANOTHER EMPLOYEE.

Council Bill 25-0051

§ 20-2. RULES AND REGULATIONS.

(A) *IN GENERAL.*

SUBJECT TO TITLE 4 {“ADMINISTRATIVE PROCEDURE ACT – REGULATIONS”} OF THE CITY GENERAL PROVISIONS ARTICLE, THE COMMISSION SHALL ADOPT RULES AND REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) *REQUIRED RULES AND REGULATIONS.*

RULES AND REGULATIONS ADOPTED BY THE COMMISSION PURSUANT TO THIS SUBTITLE SHALL INCLUDE:

(1) THE PROCEDURES, FORMS, AND DOCUMENTATION REQUIRED FOR AN EMPLOYER TO APPLY FOR A WAIVER OR VARIANCE FROM PROVIDING AN ACCOMMODATION; AND

(2) THE PROCEDURES FOR THE COMMISSION’S HEARING ON AND CONSIDERATION OF AN APPLICATION FOR A WAIVER OR VARIANCE.

§ 20-3. PROVISION OF PREGNANCY ACCOMMODATIONS.

(A) *IN GENERAL.*

AN EMPLOYER SHALL, UPON REQUEST OF AN ELIGIBLE INDIVIDUAL, PROVIDE REASONABLE ACCOMMODATIONS TO PERFORM THE ESSENTIAL FUNCTIONS OF THE ELIGIBLE INDIVIDUAL’S JOB AS LONG AS THE ACCOMMODATIONS DO NOT IMPOSE AN UNDUE HARDSHIP ON THE EMPLOYER’S BUSINESS.

(B) *GOOD-FAITH DETERMINATION.*

IF AN ELIGIBLE INDIVIDUAL REQUESTS AN ACCOMMODATION FROM AN EMPLOYER, THE EMPLOYER AND ELIGIBLE INDIVIDUAL SHALL ENGAGE IN A TIMELY, GOOD-FAITH, AND INTERACTIVE PROCESS TO DETERMINE WHAT REASONABLE ACCOMMODATIONS THE ELIGIBLE INDIVIDUAL WILL NEED.

(C) *PROOF OF NECESSITY.*

AN EMPLOYER MAY REQUIRE AN ELIGIBLE INDIVIDUAL TO PROVIDE A NOTE FROM A LICENSED HEALTHCARE PROVIDER BEFORE PROVIDING A REASONABLE ACCOMMODATION.

§ 20-4. WAIVER OR VARIANCE FOR UNDUE HARDSHIP.

IN ACCORDANCE WITH THE RULES AND REGULATIONS ADOPTED UNDER § 20-2 {“RULES AND REGULATIONS”} OF THIS SUBTITLE, AN EMPLOYER MAY APPLY TO THE COMMISSION FOR A WAIVER OR VARIANCE FROM ANY REQUIREMENT OF THIS SUBTITLE THAT THE EMPLOYER CAN DEMONSTRATE WOULD IMPOSE AN UNDUE HARDSHIP ON THE EMPLOYER’S BUSINESS.

Council Bill 25-0051

§ 20-5. FORBIDDEN ACTIONS BY EMPLOYER.

AN EMPLOYER MAY NOT:

- (1) TAKE ADVERSE ACTION AGAINST AN ELIGIBLE INDIVIDUAL WHO REQUESTS OR USES A REASONABLE ACCOMMODATION;
- (2) DENY AN EMPLOYMENT OPPORTUNITY TO AN ELIGIBLE INDIVIDUAL BASED ON THE NEED TO PROVIDE A REASONABLE ACCOMMODATION TO THE ELIGIBLE INDIVIDUAL;
- (3) REQUIRE AN ELIGIBLE INDIVIDUAL TO TAKE LEAVE IF THE EMPLOYER CAN PROVIDE ANOTHER REASONABLE ACCOMMODATION; OR
- (4) REQUIRE AN ELIGIBLE INDIVIDUAL TO TAKE A REASONABLE ACCOMMODATION THAT:
 - (I) THE ELIGIBLE INDIVIDUAL DID NOT REQUEST; OR
 - (II) IS NOT REQUIRED FOR THE ELIGIBLE INDIVIDUAL TO PERFORM THE NECESSARY FUNCTIONS OF THE ELIGIBLE INDIVIDUAL'S JOB.

§ 20-6. NOTICE OF RIGHTS UNDER SUBTITLE.

(A) *IN GENERAL.*

ANY EMPLOYER SUBJECT TO THIS SUBTITLE SHALL DEVELOP AND IMPLEMENT A WRITTEN PREGNANCY ACCOMMODATION POLICY.

(B) *MINIMUM CONTENTS.*

THE WRITTEN POLICY SHALL:

- (1) CONTAIN A STATEMENT THAT AN ELIGIBLE INDIVIDUAL HAS A LEGAL RIGHT TO REQUEST A REASONABLE ACCOMMODATION FOR PREGNANCY, RECOVERY FROM PREGNANCY, OR RELATED CONDITION;
- (2) INCLUDE THE EMPLOYER'S PROCESS FOR REQUESTING A REASONABLE ACCOMMODATION, WHICH SHALL INCLUDE:
 - (I) THE MEANS BY WHICH AN ELIGIBLE INDIVIDUAL MAY SUBMIT A REQUEST FOR REASONABLE ACCOMMODATION TO THE EMPLOYER;
 - (II) A REQUIREMENT THAT THE EMPLOYER RESPOND TO A REQUEST FOR REASONABLE ACCOMMODATION WITHIN 5 BUSINESS DAYS; AND
 - (III) A REQUIREMENT THAT THE EMPLOYER AND AN ELIGIBLE INDIVIDUAL ENGAGE IN A TIMELY, GOOD-FAITH, AND INTERACTIVE PROCESS TO DETERMINE WHAT REASONABLE ACCOMMODATIONS THE ELIGIBLE INDIVIDUAL WILL NEED;

Council Bill 25-0051

(3) STATE THAT, WHENEVER THE EMPLOYER DOES NOT PROVIDE A REASONABLE ACCOMMODATION, INCLUDING FOR UNDUE HARDSHIP, THE EMPLOYER SHALL PROVIDE IN WRITING THE REASON FOR DENYING THE REQUEST;

(4) STATE THAT ANY EMPLOYEE AGGRIEVED BY AN ALLEGED VIOLATION OF THIS SUBTITLE MAY FILE A COMPLAINT WITH THE COMMISSION;

(5) PROVIDE THE CONTACT INFORMATION FOR THE COMMISSION; AND

(6) STATE THAT ADVERSE ACTION AGAINST AN EMPLOYEE FOR REPORTING A VIOLATION OF OR EXERCISING THE RIGHTS CONFERRED BY THIS SUBTITLE IS PROHIBITED.

(C) EMPLOYER TO KEEP COPIES OF ALL RESPONSES.

IN ACCORDANCE WITH § 20-7 {"EMPLOYER RECORDS"} OF THIS SUBTITLE, AN EMPLOYER SHALL RETAIN A COPY OF ALL OF THE EMPLOYER'S WRITTEN RESPONSES REQUIRED BY SUBSECTION (B)(3) OF THIS SECTION.

(D) DISTRIBUTION OF POLICY.

(1) AN EMPLOYER SHALL DISTRIBUTE A COPY OF THE EMPLOYER'S PREGNANCY ACCOMMODATION POLICY TO AN EMPLOYEE:

(I) UPON HIRING OF THE EMPLOYEE; AND

(II) WITHIN 10 CALENDAR DAYS OF ANY MODIFICATION TO THE POLICY.

(2) AN EMPLOYER SHALL OFFER A COPY OF THE PREGNANCY ACCOMMODATION POLICY TO ANY EMPLOYEE WHO REQUESTS OR INQUIRES ABOUT THE EMPLOYER'S PREGNANCY OR PARENTAL LEAVE POLICY.

(3) IF AN EMPLOYER HAS AN EMPLOYEE HANDBOOK OR SET OF POLICIES THAT IS AVAILABLE TO EMPLOYEES, THE PREGNANCY ACCOMMODATION POLICY SHALL BE INCLUDED IN THAT HANDBOOK OR SET OF POLICIES.

§ 20-7. EMPLOYER RECORDS.

(A) IN GENERAL.

ANY EMPLOYER SUBJECT TO THIS SUBTITLE SHALL MAINTAIN A RECORD OF ALL REQUESTS FOR A REASONABLE ACCOMMODATION RECEIVED BY THE EMPLOYER.

(B) REQUIRED CONTENTS.

A RECORD KEPT PURSUANT TO THIS SECTION SHALL INCLUDE THE FOLLOWING DOCUMENTATION:

(1) THE NAME OF THE EMPLOYEE MAKING THE REQUEST;

Council Bill 25-0051

(2) THE DATE OF THE INITIAL REQUEST AND OF ANY UPDATE TO THE INITIAL REQUEST;

(3) A COPY OF ALL WRITTEN OR DIGITAL CORRESPONDENCE BY OR ON BEHALF OF THE
EMPLOYEE AND EMPLOYER; AND

(4) A DESCRIPTION OF HOW AND WHEN THE EMPLOYER RESOLVED THE REQUEST.

(C) *RETENTION PERIOD; INSPECTION.*

AN EMPLOYER SHALL:

(1) RETAIN A RECORD REQUIRED BY THIS SECTION FOR A PERIOD OF 3 YEARS FROM THE
DATE OF THE REQUEST FOR REASONABLE ACCOMMODATION; AND

(2) SUBJECT TO REASONABLE NOTICE, ALLOW THE COMMISSION ACCESS TO THAT
RECORD, UPON REQUEST, TO MONITOR COMPLIANCE WITH THE REQUIREMENTS OF
THIS SUBTITLE.

(D) *EFFECT OF FAILURE TO COMPLY.*

IN ANY MATTER INVOLVING AN ALLEGED VIOLATION OF THIS SUBTITLE, AN EMPLOYER
CREATES A REBUTTABLE PRESUMPTION THAT THE EMPLOYER HAS VIOLATED THIS
SUBTITLE IF THE EMPLOYER:

(1) HAS FAILED TO MAINTAIN OR RETAIN A RECORD REQUIRED BY THIS SECTION; OR

(2) DOES NOT ALLOW THE COMMISSION REASONABLE ACCESS TO THE RECORD
REQUIRED BY THIS SUBSECTION.

§ 20-8. COMPLAINT TO COMMISSION.

(A) *COMPLAINT AUTHORIZED.*

ANY PERSON AGGRIEVED BY AN ALLEGED VIOLATION OF THIS SUBTITLE MAY FILE A
COMPLAINT WITH THE COMMISSION.

(B) *PROCESS.*

A COMPLAINT OF AN ALLEGED VIOLATION OF THIS SUBTITLE SHALL BE FILED,
INVESTIGATED, AND HEARD IN THE SAME MANNER AS THAT PROVIDED IN CITY CODE
ARTICLE 4, SUBTITLE 4 {"ENFORCEMENT"} AS AN ALLEGED UNLAWFUL DISCRIMINATORY
EMPLOYMENT PRACTICE.

Council Bill 25-0051

§ 20-9. JUDICIAL AND APPELLATE REVIEW.

(A) JUDICIAL REVIEW.

A PARTY AGGRIEVED BY A FINAL DECISION OF THE COMMISSION UNDER THIS SUBTITLE MAY SEEK JUDICIAL REVIEW OF THE COMMISSION'S DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

(B) APPELLATE REVIEW.

A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE CIRCUIT COURT'S FINAL JUDGMENT TO THE APPELLATE COURT OF MARYLAND IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

§ 20-10. CRIMINAL PENALTIES.

A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF A RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A PENALTY OF NOT MORE THAN \$500 FOR EACH OFFENSE.

§ 20-11. APPLICABILITY OF OTHER LAWS.

NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO AFFECT THE APPLICABILITY OR ENFORCEABILITY OF ANY FEDERAL OR STATE LAW, RULE, OR REGULATION REGARDING ACCOMMODATIONS FOR INDIVIDUALS WHO ARE PREGNANT, RECOVERING FROM PREGNANCY, OR HAVE A RELATED CONDITION.

SECTION 2. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.