

Legislative Analysis



ELLIOTT-LARSEN CIVIL RIGHTS ACT: PREGNANCY, CHILDBIRTH, ETC.

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House Bill 6226 (Substitute H-1)
Sponsor: Rep. Coleman Young
Committee: Labor

Complete to 9-15-08

A SUMMARY OF HOUSE BILL 6226 (H-1, AS ADOPTED BY COMMITTEE)

The bill would amend Section 202 of the Elliott-Larsen Civil Rights Acts to prohibit treating an individual affected by pregnancy, childbirth, or a related medical condition differently for any employment related purposes from another individual not so affected but similar in ability or inability to work, without regard to the source of any condition affecting the his or her ability or inability to work.

MCL 37.2202

FISCAL IMPACT:

The bill would have no significant fiscal impact on the state and local units of government, as state and federal law already prohibit discriminatory employment practices against pregnant employees. The federal Civil Right Act, 42 USC 2000e(k), defines [discrimination] "because of sex" or "on the basis of sex" as including, but not limited to, "because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work..."¹ The Code of Federal Regulation (Appendix to Title 29, Part 1604) states "[t]he basic principle of the Act is that women affected by pregnancy and related conditions must be treated the same as other applicants and employees on the basis of their ability or inability to work. A woman is therefore protected against such practices as being fired, or refused a job or promotion, merely because she is pregnant or has had an abortion. She usually cannot be forced to go on leave as long as she can still work. If other employees who take disability leave are entitled to get their jobs back when they are able to work again, so are women who have been unable to work because of pregnancy." Moreover, the regulations specifically

¹ 29 CFR 1604.10 further states "Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and benefits and privileges, reinstatement, and payment under any health or disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy, childbirth, or related medical conditions on the same terms and conditions are they are applied to other disabilities.

provide that "[a]n employer is required to treat an employee temporarily unable to perform the functions of her job because of her pregnancy-related condition in the same manner as it treats other temporarily disabled employees, whether by providing modified tasks, alternative assignments, disability leaves, leaves without pay, etc." The Elliot-Larsen Civil Rights Act, MCL 37.2201(d), defines [discrimination on the basis of] "sex" as including but not limited to pregnancy, childbirth, or a medical condition related to pregnancy or childbirth..."² Fitting within these strictures, the bill clarifies the employment protections for pregnant employees under state law. As a result, the bill could potentially result in a small increase in the number of complaints filed with the Department of Civil Rights. The department's investigatory costs vary depending on the nature and complexity of each case although, on an individual basis, such costs are not significant.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

² The regulations further state, "[a]n employee must be permitted to work at all times during pregnancy when she is able to perform her job."