



Rep. Stephanie A. Kifowit

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LRB100 07046 HEP 23906 a

1 AMENDMENT TO HOUSE BILL 647

2 AMENDMENT NO. _____. Amend House Bill 647 by replacing
3 everything after the enacting clause with the following:

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

6 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

7 Sec. 2-102. Civil Rights Violations - Employment. It is a
8 civil rights violation:

9 (A) Employers. For any employer to refuse to hire, to
10 segregate, or to act with respect to recruitment, hiring,
11 promotion, renewal of employment, selection for training or
12 apprenticeship, discharge, discipline, tenure or terms,
13 privileges or conditions of employment on the basis of unlawful
14 discrimination or citizenship status.

15 (A-5) Language. For an employer to impose a restriction
16 that has the effect of prohibiting a language from being spoken

1 by an employee in communications that are unrelated to the
2 employee's duties.

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

7 (B) Employment Agency. For any employment agency to fail or
8 refuse to classify properly, accept applications and register
9 for employment referral or apprenticeship referral, refer for
10 employment, or refer for apprenticeship on the basis of
11 unlawful discrimination or citizenship status or to accept from
12 any person any job order, requisition or request for referral
13 of applicants for employment or apprenticeship which makes or
14 has the effect of making unlawful discrimination or
15 discrimination on the basis of citizenship status a condition
16 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, or
21 fail to take, any action which affects adversely any person's
22 status as an employee or as an applicant for employment or as
23 an apprentice, or as an applicant for apprenticeships, or
24 wages, tenure, hours of employment or apprenticeship
25 conditions on the basis of unlawful discrimination or
26 citizenship status.

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

8 (E) Public Employers. For any public employer to refuse to
9 permit a public employee under its jurisdiction who takes time
10 off from work in order to practice his or her religious beliefs
11 to engage in work, during hours other than such employee's
12 regular working hours, consistent with the operational needs of
13 the employer and in order to compensate for work time lost for
14 such religious reasons. Any employee who elects such deferred
15 work shall be compensated at the wage rate which he or she
16 would have earned during the originally scheduled work period.
17 The employer may require that an employee who plans to take
18 time off from work in order to practice his or her religious
19 beliefs provide the employer with a notice of his or her
20 intention to be absent from work not exceeding 5 days prior to
21 the date of absence.

22 (F) Training and Apprenticeship Programs. For any
23 employer, employment agency or labor organization to
24 discriminate against a person on the basis of age in the
25 selection, referral for or conduct of apprenticeship or
26 training programs.

1 (G) Immigration-Related Practices.

2 (1) for an employer to request for purposes of
3 satisfying the requirements of Section 1324a(b) of Title 8
4 of the United States Code, as now or hereafter amended,
5 more or different documents than are required under such
6 Section or to refuse to honor documents tendered that on
7 their face reasonably appear to be genuine; or

8 (2) for an employer participating in the E-Verify
9 Program, as authorized by 8 U.S.C. 1324a, Notes, Pilot
10 Programs for Employment Eligibility Confirmation (enacted
11 by PL 104-208, div. C title IV, subtitle A) to refuse to
12 hire, to segregate, or to act with respect to recruitment,
13 hiring, promotion, renewal of employment, selection for
14 training or apprenticeship, discharge, discipline, tenure
15 or terms, privileges or conditions of employment without
16 following the procedures under the E-Verify Program.

17 (H) (Blank).

18 (I) Pregnancy. For an employer to refuse to hire, to
19 segregate, or to act with respect to recruitment, hiring,
20 promotion, renewal of employment, selection for training or
21 apprenticeship, discharge, discipline, tenure or terms,
22 privileges or conditions of employment on the basis of
23 pregnancy, childbirth, or medical or common conditions related
24 to pregnancy or childbirth. Women affected by pregnancy,
25 childbirth, or medical or common conditions related to
26 pregnancy or childbirth shall be treated the same for all

1 employment-related purposes, including receipt of benefits
2 under fringe benefit programs, as other persons not so affected
3 but similar in their ability or inability to work, regardless
4 of the source of the inability to work or employment
5 classification or status.

6 (J) Pregnancy; reasonable accommodations.

7 (1) If after a job applicant or employee, including a
8 part-time, full-time, or probationary employee, requests a
9 reasonable accommodation, for an employer to not make
10 reasonable accommodations for any medical or common
11 condition of a job applicant or employee related to
12 pregnancy or childbirth, unless the employer can
13 demonstrate that the accommodation would impose an undue
14 hardship on the ordinary operation of the business of the
15 employer. The employer may request documentation from the
16 employee's health care provider concerning the need for the
17 requested reasonable accommodation or accommodations to
18 the same extent documentation is requested for conditions
19 related to disability if the employer's request for
20 documentation is job-related and consistent with business
21 necessity. The employer may require only the medical
22 justification for the requested accommodation or
23 accommodations, a description of the reasonable
24 accommodation or accommodations medically advisable, the
25 date the reasonable accommodation or accommodations became
26 medically advisable, and the probable duration of the

1 reasonable accommodation or accommodations. It is the duty
2 of the individual seeking a reasonable accommodation or
3 accommodations to submit to the employer any documentation
4 that is requested in accordance with this paragraph.
5 Notwithstanding the provisions of this paragraph, the
6 employer may require documentation by the employee's
7 health care provider to determine compliance with other
8 laws. The employee and employer shall engage in a timely,
9 good faith, and meaningful exchange to determine effective
10 reasonable accommodations.

11 (2) For an employer to deny employment opportunities or
12 benefits to or take adverse action against an otherwise
13 qualified job applicant or employee, including a
14 part-time, full-time, or probationary employee, if the
15 denial or adverse action is based on the need of the
16 employer to make reasonable accommodations to the known
17 medical or common conditions related to the pregnancy or
18 childbirth of the applicant or employee.

19 (3) For an employer to require a job applicant or
20 employee, including a part-time, full-time, or
21 probationary employee, affected by pregnancy, childbirth,
22 or medical or common conditions related to pregnancy or
23 childbirth to accept an accommodation when the applicant or
24 employee did not request an accommodation and the applicant
25 or employee chooses not to accept the employer's
26 accommodation.

1 (4) For an employer to require an employee, including a
2 part-time, full-time, or probationary employee, to take
3 leave under any leave law or policy of the employer if
4 another reasonable accommodation can be provided to the
5 known medical or common conditions related to the pregnancy
6 or childbirth of an employee. No employer shall fail or
7 refuse to reinstate the employee affected by pregnancy,
8 childbirth, or medical or common conditions related to
9 pregnancy or childbirth to her original job or to an
10 equivalent position with equivalent pay and accumulated
11 seniority, retirement, fringe benefits, and other
12 applicable service credits upon her signifying her intent
13 to return or when her need for reasonable accommodation
14 ceases, unless the employer can demonstrate that the
15 accommodation would impose an undue hardship on the
16 ordinary operation of the business of the employer.

17 For the purposes of this subdivision (J), "reasonable
18 accommodations" means reasonable modifications or adjustments
19 to the job application process or work environment, or to the
20 manner or circumstances under which the position desired or
21 held is customarily performed, that enable an applicant or
22 employee affected by pregnancy, childbirth, or medical or
23 common conditions related to pregnancy or childbirth to be
24 considered for the position the applicant desires or to perform
25 the essential functions of that position, and may include, but
26 is not limited to: more frequent or longer bathroom breaks,

1 breaks for increased water intake, and breaks for periodic
2 rest; private non-bathroom space for expressing breast milk and
3 breastfeeding; seating; assistance with manual labor; light
4 duty; temporary transfer to a less strenuous or hazardous
5 position; the provision of an accessible worksite; acquisition
6 or modification of equipment; job restructuring; a part-time or
7 modified work schedule; appropriate adjustment or
8 modifications of examinations, training materials, or
9 policies; reassignment to a vacant position; time off to
10 recover from conditions related to childbirth; and leave
11 necessitated by pregnancy, childbirth, or medical or common
12 conditions resulting from pregnancy or childbirth.

13 For the purposes of this subdivision (J), "undue hardship"
14 means an action that is prohibitively expensive or disruptive
15 when considered in light of the following factors: (i) the
16 nature and cost of the accommodation needed; (ii) the overall
17 financial resources of the facility or facilities involved in
18 the provision of the reasonable accommodation, the number of
19 persons employed at the facility, the effect on expenses and
20 resources, or the impact otherwise of the accommodation upon
21 the operation of the facility; (iii) the overall financial
22 resources of the employer, the overall size of the business of
23 the employer with respect to the number of its employees, and
24 the number, type, and location of its facilities; and (iv) the
25 type of operation or operations of the employer, including the
26 composition, structure, and functions of the workforce of the

1 employer, the geographic separateness, administrative, or
2 fiscal relationship of the facility or facilities in question
3 to the employer. The employer has the burden of proving undue
4 hardship. The fact that the employer provides or would be
5 required to provide a similar accommodation to similarly
6 situated employees creates a rebuttable presumption that the
7 accommodation does not impose an undue hardship on the
8 employer.

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

18 (K) Notice.

19 (1) For an employer to fail to post or keep posted in a
20 conspicuous location on the premises of the employer where
21 notices to employees are customarily posted, or fail to
22 include in any employee handbook information concerning an
23 employee's rights under this Article, a notice, to be
24 prepared or approved by the Department, summarizing the
25 requirements of this Article and information pertaining to
26 the filing of a charge, including the right to be free from

1 unlawful discrimination and the right to certain
2 reasonable accommodations. The Department shall make the
3 documents required under this paragraph available for
4 retrieval from the Department's website.

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

12 (L) Order of protection status. For an employer to refuse
13 to make reasonable accommodations in the workplace for an
14 employee protected under an order of protection that requires a
15 person to stay away from an employee's workplace or otherwise
16 relates to or affects or extends to the employee's workplace,
17 including:

18 (1) changing the contact information, such as
19 telephone number, fax number, or electronic-mail address
20 of the employee;

21 (2) screening the telephone calls of the employee;

22 (3) restructuring the job functions of the employee;

23 (4) changing the work location of the employee;

24 (5) installing locks and other security devices; and

25 (6) allowing the employee to work flexible hours.

26 The employee and employer shall engage in a timely, good

1 faith, and meaningful exchange to determine effective
2 reasonable accommodations. An employer is not required to make
3 the reasonable accommodations if they are not requested by the
4 protected employee or if they cause undue hardship on the work
5 operations of the employer. As used in this subdivision (L),
6 "undue hardship" means accommodations that: (i) conflict with
7 the employer's attendance policy or residency requirement; or
8 (ii) cause a significant difficulty or expense on the operation
9 of an employer, when considered in light of the following
10 factors:

11 (A) the nature and cost of the reasonable accommodation
12 needed;

13 (B) the overall financial resources, number of
14 employees, and the number, type, and placement of the work
15 locations of an employer; and

16 (C) the type of operation of the employer, including
17 the composition, structure, and functions of the workforce
18 of the employer, the geographic separateness of the
19 employee's work location from the employer, and the
20 administrative or fiscal relationship of the work location
21 to the employer.

22 Prior to making the reasonable accommodations under this
23 subdivision (L), an employer may verify that an employee is
24 protected by an order of protection entered under Article 112A
25 of the Code of Criminal Procedure of 1963 or the Illinois
26 Domestic Violence Act of 1986. An employee for whom reasonable

1 accommodations are made under this subdivision (L) shall notify
2 the employer when the order of protection expires.

3 (Source: P.A. 97-596, eff. 8-26-11; 98-212, eff. 8-9-13;
4 98-1050, eff. 1-1-15.)".