

SB1697



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1697

Introduced 2/9/2017, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

775 ILCS 5/2-102

from Ch. 68, par. 2-102

Amends the Illinois Human Rights Act. Provides that it is a violation for an employer to impose as a condition of obtaining or retaining employment any term or condition that requires a person to violate or forgo a sincerely held practice of his or her religion including the wearing of any attire, clothing, or facial hair in accordance with the requirements of his or her religion. Effective immediately.

LRB100 08917 JLS 19060 b

A BILL FOR

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 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
17 by an employee in communications that are unrelated to the
18 employee's duties.

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

23 (B) Employment Agency. For any employment agency to fail or

1 refuse to classify properly, accept applications and register
2 for employment referral or apprenticeship referral, refer for
3 employment, or refer for apprenticeship on the basis of
4 unlawful discrimination or citizenship status or to accept from
5 any person any job order, requisition or request for referral
6 of applicants for employment or apprenticeship which makes or
7 has the effect of making unlawful discrimination or
8 discrimination on the basis of citizenship status a condition
9 of referral.

10 (C) Labor Organization. For any labor organization to
11 limit, segregate or classify its membership, or to limit
12 employment opportunities, selection and training for
13 apprenticeship in any trade or craft, or otherwise to take, or
14 fail to take, any action which affects adversely any person's
15 status as an employee or as an applicant for employment or as
16 an apprentice, or as an applicant for apprenticeships, or
17 wages, tenure, hours of employment or apprenticeship
18 conditions on the basis of unlawful discrimination or
19 citizenship status.

20 (D) Sexual Harassment. For any employer, employee, agent of
21 any employer, employment agency or labor organization to engage
22 in sexual harassment; provided, that an employer shall be
23 responsible for sexual harassment of the employer's employees
24 by nonemployees or nonmanagerial and nonsupervisory employees
25 only if the employer becomes aware of the conduct and fails to
26 take reasonable corrective measures.

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

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

1 the employer's business.

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

7 (G) Immigration-Related Practices.

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

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

23 (H) (Blank).

24 (I) Pregnancy. For an employer to refuse to hire, to
25 segregate, or to act with respect to recruitment, hiring,
26 promotion, renewal of employment, selection for training or

1 apprenticeship, discharge, discipline, tenure or terms,
2 privileges or conditions of employment on the basis of
3 pregnancy, childbirth, or medical or common conditions related
4 to pregnancy or childbirth. Women affected by pregnancy,
5 childbirth, or medical or common conditions related to
6 pregnancy or childbirth shall be treated the same for all
7 employment-related purposes, including receipt of benefits
8 under fringe benefit programs, as other persons not so affected
9 but similar in their ability or inability to work, regardless
10 of the source of the inability to work or employment
11 classification or status.

12 (J) Pregnancy; reasonable accommodations.

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

1 necessity. The employer may require only the medical
2 justification for the requested accommodation or
3 accommodations, a description of the reasonable
4 accommodation or accommodations medically advisable, the
5 date the reasonable accommodation or accommodations became
6 medically advisable, and the probable duration of the
7 reasonable accommodation or accommodations. It is the duty
8 of the individual seeking a reasonable accommodation or
9 accommodations to submit to the employer any documentation
10 that is requested in accordance with this paragraph.
11 Notwithstanding the provisions of this paragraph, the
12 employer may require documentation by the employee's
13 health care provider to determine compliance with other
14 laws. The employee and employer shall engage in a timely,
15 good faith, and meaningful exchange to determine effective
16 reasonable accommodations.

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

25 (3) For an employer to require a job applicant or
26 employee, including a part-time, full-time, or

1 probationary employee, affected by pregnancy, childbirth,
2 or medical or common conditions related to pregnancy or
3 childbirth to accept an accommodation when the applicant or
4 employee did not request an accommodation and the applicant
5 or employee chooses not to accept the employer's
6 accommodation.

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

23 For the purposes of this subdivision (J), "reasonable
24 accommodations" means reasonable modifications or adjustments
25 to the job application process or work environment, or to the
26 manner or circumstances under which the position desired or

1 held is customarily performed, that enable an applicant or
2 employee affected by pregnancy, childbirth, or medical or
3 common conditions related to pregnancy or childbirth to be
4 considered for the position the applicant desires or to perform
5 the essential functions of that position, and may include, but
6 is not limited to: more frequent or longer bathroom breaks,
7 breaks for increased water intake, and breaks for periodic
8 rest; private non-bathroom space for expressing breast milk and
9 breastfeeding; seating; assistance with manual labor; light
10 duty; temporary transfer to a less strenuous or hazardous
11 position; the provision of an accessible worksite; acquisition
12 or modification of equipment; job restructuring; a part-time or
13 modified work schedule; appropriate adjustment or
14 modifications of examinations, training materials, or
15 policies; reassignment to a vacant position; time off to
16 recover from conditions related to childbirth; and leave
17 necessitated by pregnancy, childbirth, or medical or common
18 conditions resulting from pregnancy or childbirth.

19 For the purposes of this subdivision (J), "undue hardship"
20 means an action that is prohibitively expensive or disruptive
21 when considered in light of the following factors: (i) the
22 nature and cost of the accommodation needed; (ii) the overall
23 financial resources of the facility or facilities involved in
24 the provision of the reasonable accommodation, the number of
25 persons employed at the facility, the effect on expenses and
26 resources, or the impact otherwise of the accommodation upon

1 the operation of the facility; (iii) the overall financial
2 resources of the employer, the overall size of the business of
3 the employer with respect to the number of its employees, and
4 the number, type, and location of its facilities; and (iv) the
5 type of operation or operations of the employer, including the
6 composition, structure, and functions of the workforce of the
7 employer, the geographic separateness, administrative, or
8 fiscal relationship of the facility or facilities in question
9 to the employer. The employer has the burden of proving undue
10 hardship. The fact that the employer provides or would be
11 required to provide a similar accommodation to similarly
12 situated employees creates a rebuttable presumption that the
13 accommodation does not impose an undue hardship on the
14 employer.

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

24 (K) Notice.

25 (1) For an employer to fail to post or keep posted in a
26 conspicuous location on the premises of the employer where

1 notices to employees are customarily posted, or fail to
2 include in any employee handbook information concerning an
3 employee's rights under this Article, a notice, to be
4 prepared or approved by the Department, summarizing the
5 requirements of this Article and information pertaining to
6 the filing of a charge, including the right to be free from
7 unlawful discrimination and the right to certain
8 reasonable accommodations. The Department shall make the
9 documents required under this paragraph available for
10 retrieval from the Department's website.

11 (2) Upon notification of a violation of paragraph (1)
12 of this subdivision (K), the Department may launch a
13 preliminary investigation. If the Department finds a
14 violation, the Department may issue a notice to show cause
15 giving the employer 30 days to correct the violation. If
16 the violation is not corrected, the Department may initiate
17 a charge of a civil rights violation.

18 (Source: P.A. 97-596, eff. 8-26-11; 98-212, eff. 8-9-13;
19 98-1050, eff. 1-1-15.)

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