

1999 ASSEMBLY BILL 199

March 12, 1999 – Introduced by Representatives BOCK, SINICKI, RICHARDS, MILLER, POCAN, BLACK, F. LASEE, LA FAVE, WASSERMAN, SYKORA, COLON, BERCEAU, BOYLE, CARPENTER, CULLEN and YOUNG, cosponsored by Senators BURKE, ERPENBACH and DARLING. Referred to Committee on Labor and Employment.

1 **AN ACT to create** 103.12, 106.06 (6) and 230.45 (1) (L) of the statutes; **relating**
2 **to:** requiring an employer to reasonably accommodate an employe who is
3 pregnant or who is breast-feeding her child.

Analysis by the Legislative Reference Bureau

Current law prohibits certain bases of employment discrimination including discrimination based on an employe's sex or handicap. Under current law, discrimination based on sex includes discriminating against any woman on the basis of pregnancy, childbirth or related medical conditions, and discrimination based on handicap includes refusing to reasonably accommodate an employe's handicap unless the employer can demonstrate that the accommodation would pose a hardship on the employer's program, enterprise or business. Currently, the department of workforce development (DWD) may order an employer that has discriminated against an employe to take such action as will effectuate the purpose of the fair employment law, including the payment of back pay, reinstatement of the employe or the payment of compensation in lieu of reinstatement.

This bill permits an employe who is pregnant or breast-feeding her child to request her employer to reasonably accommodate her condition, if the employe believes that the duties or environment of her employment pose a substantial hazard to the present or future health of the employe or of her child or unborn child. The bill requires an employer that receives such a request to reasonably accommodate the employe's condition unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program,

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enterprise or business. Under the bill, an employer may not discharge or otherwise discriminate against an employee who requests a reasonable accommodation under the bill, files a complaint or attempts to enforce any right granted under the bill or testifies or assists in any action or proceeding to enforce any right under the bill. Finally, under the bill, an employee whose request for a reasonable accommodation is denied in violation of the bill, or who is discharged or discriminated against in violation of the bill, may file a complaint with DWD and DWD must process the complaint in the same manner as employment discrimination complaints are processed under current law, which processing may include the ordering of back pay, reinstatement or compensation in lieu of reinstatement.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 103.12 of the statutes is created to read:

2 **103.12 Reasonable accommodation of pregnant or breast-feeding**
3 **employees. (1)** If an employee who is pregnant or breast-feeding her child believes
4 that the duties or environment of her employment pose a substantial hazard to the
5 present or future health of the employee or of her child or unborn child, the employee
6 may request her employer to reasonably accommodate her condition.

7 **(2)** An employer that receives a request under sub. (1) shall reasonably
8 accommodate the employee's condition unless the employer can demonstrate that the
9 accommodation would pose an undue hardship on the employer's program,
10 enterprise or business.

11 **(3)** No employer may discharge or otherwise discriminate against any person
12 for requesting a reasonable accommodation under sub. (1), filing a complaint or
13 attempting to enforce any right under this section or testifying or assisting in any
14 action or proceeding to enforce any right under this section.

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1 **(4) (a)** Subject to par. (b), any employe whose request for a reasonable
2 accommodation under sub. (1) is denied in violation of sub. (2) or who is discharged
3 or otherwise discriminated against in violation of sub. (3) may file a complaint with
4 the department and the department shall process the complaint in the same manner
5 as employment discrimination complaints are processed under s. 111.39.

6 **(b)** Any employe of a state agency, as defined in s. 111.32 (6) (a), whose request
7 for a reasonable accommodation under sub. (1) is denied in violation of sub. (2) or who
8 is discharged or otherwise discriminated against in violation of sub. (3) may file a
9 complaint with the personnel commission and the personnel commission shall
10 process the complaint in the same manner as employment discrimination complaints
11 are processed under s. 111.39.

12 **SECTION 2.** 106.06 (6) of the statutes is created to read:

13 **106.06 (6)** The division shall receive complaints under s. 103.12 (4) (a) and shall
14 process the complaints in the same manner as employment discrimination
15 complaints are processed under s. 111.39.

16 **SECTION 3.** 230.45 (1) (L) of the statutes is created to read:

17 **230.45 (1) (L)** Receive complaints under s. 103.12 (4) (b) and, except as provided
18 in sub. (1m), process the complaints in the same manner as employment
19 discrimination complaints are processed under s. 111.39.

20 **SECTION 4. Initial applicability.**

21 **(1)** This act first applies to employes who are affected by a collective bargaining
22 agreement that contains provisions inconsistent with section 103.12 of the statutes,
23 as created by this act, on the day on which the collective bargaining agreement
24 expires or is extended, modified or renewed, whichever occurs first.

25 **(END)**