

ORDINANCE

CREATING

THE GENDER EQUITY IN THE WORKPLACE ACT

Be it ordained that the City of Central Falls amends Chapter 12, Article 1 of the Revised Ordinances, City of Central Falls, Rhode Island, by adding section 12-5, the Gender Equity in the Workplace Act, which reads as follows:

Section 1: Chapter 12, Article 1 is hereby amended to include Section 12-5

(a) Findings and intent. It is the intent of the City of Central Falls to combat pregnancy discrimination by requiring employers to provide reasonable accommodations to pregnant women and those with conditions related to pregnancy and childbirth. Such a reasonable accommodation may include more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, seating, temporary transfer to a less strenuous or hazardous position, job restructuring, light duty, break time and private non-bathroom space for expressing breast milk, assistance with manual labor, or modified work schedules, among other things. It is not the intent of the City of Central Falls to require such accommodations if this provision would cause an undue hardship in the conduct of an employer's business.

(b) Definitions.

(1) The term "reasonably accommodate" shall mean providing reasonable accommodations, including, but not limited to: more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, seating, temporary transfer to a less strenuous or hazardous position, job restructuring, light duty, break time and private non-bathroom space for expressing breast milk, assistance with manual labor, or modified work schedules, provided that:

(A) no employer shall be required by this section to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation, such as those who are injured on-the-job or those with disabilities and;

(B) the employer shall not be required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job, unless the employer does so or would do so to accommodate other classes of employees who need it, such as those who are injured on-the-job or those with disabilities.

(C) Nothing in this chapter shall be construed to require an individual with a need related to pregnancy, childbirth, or a related medical condition to accept an accommodation, which such individual chooses not to accept.

(2) The term "related conditions" includes, but is not limited to, lactation or the need to produce breast milk for a nursing child.

(3) The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subsection (1).

(A) The employer shall have the burden of proving undue hardship. In making a determination of undue hardship, the factors that may be considered include but shall not be limited to:

- (i) the nature and cost of the accommodation;
- (ii) the overall financial resources of the employer; the overall size of the business of the employer with respect to the number of employees, and the number, type, and location of its facilities; and
- (iii) the effect on expenses and resources or the impact otherwise of such accommodation upon the operation of the employer.

(B) The fact that the employer provides or would be required to provide a similar accommodation to other classes of employees who need it, such as those who are injured on-the-job or those with disabilities, shall create a rebuttable presumption that the accommodation does not impose an undue hardship on the employer.

(c) It shall be an unlawful employment practice for any employer in the City of Central Falls or any entity contracted with the City of Central Falls:

(1) To refuse to reasonably accommodate an employee's or prospective employee's condition related to pregnancy, childbirth, or a related medical condition, including, but not limited to, the need to express breast milk for a nursing child, if she so requests; unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise, or business.

(2) To require an employee to take leave if another reasonable accommodation can be provided to an employee's condition related to the pregnancy, childbirth, or a related medical condition.

(3) To deny employment opportunities to an employee or prospective employee, if such denial is based on the refusal of the employer to reasonably accommodate an employee's or prospective employee's condition related to pregnancy, childbirth, or a related medical condition.

(d) Notice of rights. An employer shall provide written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions pursuant to this subdivision to: (i) new employees at the commencement of employment; and (ii) existing

employees within one hundred twenty days after the effective date of the local law that added this subdivision. Such notice may also be conspicuously posted at an employer's place of business in an area accessible to employees.

(e) Violations. Upon a finding of three (3) or more individual violations, the city council may revoke the license of any employer or may suspend any license for such time as they deem necessary or reasonable under the circumstances. No license shall be revoked or suspended until after a hearing before the city council wherein the employer will be given the opportunity to present testimony and be heard.

(f) This section shall not be construed to affect any other provision of law relating to sex discrimination or pregnancy, or to preempt, limit, diminish or otherwise affect any other law that provides greater protection or specific benefits with respect to pregnancy, childbirth or medical conditions related to childbirth.

Section 2: This ordinance is effective upon passage.

Introduced by Councilwoman Stephanie Gonzalez

Introduction: February 26, 2014

First Passage: March 10, 2014

Second Reading: March 24, 2014