

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**H. B. No. 707**

**Representatives Kelly, Upchurch**

**Cosponsors: Representatives Miranda, Lightbody, Brent, Davis, Russo, Liston,  
Galonski, Weinstein, Smith, K., Skindell, Sobecki, Miller, A., Miller, J., Sheehy,  
Crossman, Denson, Ingram**

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**A BILL**

To amend sections 4112.01, 4112.052, 4112.07, and 1  
4113.71 and to enact section 4112.025 of the 2  
Revised Code to enact the "Pregnancy 3  
Accommodation Act" to generally require 4  
employers to make reasonable accommodations for 5  
pregnant employees. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4112.01, 4112.052, 4112.07, and 7  
4113.71 be amended and section 4112.025 of the Revised Code be 8  
enacted to read as follows: 9

**Sec. 4112.01.** (A) As used in this chapter: 10

(1) "Person" includes one or more individuals, 11  
partnerships, associations, organizations, corporations, legal 12  
representatives, trustees, trustees in bankruptcy, receivers, 13  
and other organized groups of persons. "Person" also includes, 14  
but is not limited to, any owner, lessor, assignor, builder, 15  
manager, broker, salesperson, appraiser, agent, employee, 16

lending institution, and the state and all political 17  
subdivisions, authorities, agencies, boards, and commissions of 18  
the state. 19

(2) "Employer" means the state, any political subdivision 20  
of the state, or a person employing four or more persons within 21  
the state, and any agent of the state, political subdivision, or 22  
person. 23

(3) "Employee" means an individual employed by any 24  
employer but does not include any individual employed in the 25  
domestic service of any person. 26

(4) "Labor organization" includes any organization that 27  
exists, in whole or in part, for the purpose of collective 28  
bargaining or of dealing with employers concerning grievances, 29  
terms or conditions of employment, or other mutual aid or 30  
protection in relation to employment. 31

(5) "Employment agency" includes any person regularly 32  
undertaking, with or without compensation, to procure 33  
opportunities to work or to procure, recruit, refer, or place 34  
employees. 35

(6) "Commission" means the Ohio civil rights commission 36  
created by section 4112.03 of the Revised Code. 37

(7) "Discriminate" includes segregate or separate. 38

(8) "Unlawful discriminatory practice" means any act 39  
prohibited by section 4112.02, 4112.021, ~~or~~ 4112.022, or 40  
4112.025 of the Revised Code. 41

(9) "Place of public accommodation" means any inn, 42  
restaurant, eating house, barbershop, public conveyance by air, 43  
land, or water, theater, store, other place for the sale of 44

merchandise, or any other place of public accommodation or 45  
amusement of which the accommodations, advantages, facilities, 46  
or privileges are available to the public. 47

(10) "Housing accommodations" includes any building or 48  
structure, or portion of a building or structure, that is used 49  
or occupied or is intended, arranged, or designed to be used or 50  
occupied as the home residence, dwelling, dwelling unit, or 51  
sleeping place of one or more individuals, groups, or families 52  
whether or not living independently of each other; and any 53  
vacant land offered for sale or lease. "Housing accommodations" 54  
also includes any housing accommodations held or offered for 55  
sale or rent by a real estate broker, salesperson, or agent, by 56  
any other person pursuant to authorization of the owner, by the 57  
owner, or by the owner's legal representative. 58

(11) "Restrictive covenant" means any specification 59  
limiting the transfer, rental, lease, or other use of any 60  
housing accommodations because of race, color, religion, sex, 61  
military status, familial status, national origin, disability, 62  
or ancestry, or any limitation based upon affiliation with or 63  
approval by any person, directly or indirectly, employing race, 64  
color, religion, sex, military status, familial status, national 65  
origin, disability, or ancestry as a condition of affiliation or 66  
approval. 67

(12) "Burial lot" means any lot for the burial of deceased 68  
persons within any public burial ground or cemetery, including, 69  
but not limited to, cemeteries owned and operated by municipal 70  
corporations, townships, or companies or associations 71  
incorporated for cemetery purposes. 72

(13) "Disability" means a physical or mental impairment 73  
that substantially limits one or more major life activities, 74

including the functions of caring for one's self, performing 75  
manual tasks, walking, seeing, hearing, speaking, breathing, 76  
learning, and working; a record of a physical or mental 77  
impairment; or being regarded as having a physical or mental 78  
impairment. 79

(14) Except as otherwise provided in section 4112.021 of 80  
the Revised Code, "age" means an individual aged forty years or 81  
older. 82

(15) "Familial status" means either of the following: 83

(a) One or more individuals who are under eighteen years 84  
of age and who are domiciled with a parent or guardian having 85  
legal custody of the individual or domiciled, with the written 86  
permission of the parent or guardian having legal custody, with 87  
a designee of the parent or guardian; 88

(b) Any person who is pregnant or in the process of 89  
securing legal custody of any individual who is under eighteen 90  
years of age. 91

(16) (a) Except as provided in division (A) (16) (b) of this 92  
section, "physical or mental impairment" includes any of the 93  
following: 94

(i) Any physiological disorder or condition, cosmetic 95  
disfigurement, or anatomical loss affecting one or more of the 96  
following body systems: neurological; musculoskeletal; special 97  
sense organs; respiratory, including speech organs; 98  
cardiovascular; reproductive; digestive; genito-urinary; hemic 99  
and lymphatic; skin; and endocrine; 100

(ii) Any mental or psychological disorder, including, but 101  
not limited to, intellectual disability, organic brain syndrome, 102  
emotional or mental illness, and specific learning disabilities; 103

(iii) Diseases and conditions, including, but not limited	104
to, orthopedic, visual, speech, and hearing impairments,	105
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple	106
sclerosis, cancer, heart disease, diabetes, human	107
immunodeficiency virus infection, intellectual disability,	108
emotional illness, drug addiction, and alcoholism.	109
(b) "Physical or mental impairment" does not include any	110
of the following:	111
(i) Homosexuality and bisexuality;	112
(ii) Transvestism, transsexualism, pedophilia,	113
exhibitionism, voyeurism, gender identity disorders not	114
resulting from physical impairments, or other sexual behavior	115
disorders;	116
(iii) Compulsive gambling, kleptomania, or pyromania;	117
(iv) Psychoactive substance use disorders resulting from	118
the current illegal use of a controlled substance or the current	119
use of alcoholic beverages.	120
(17) "Dwelling unit" means a single unit of residence for	121
a family of one or more persons.	122
(18) "Common use areas" means rooms, spaces, or elements	123
inside or outside a building that are made available for the use	124
of residents of the building or their guests, and includes, but	125
is not limited to, hallways, lounges, lobbies, laundry rooms,	126
refuse rooms, mail rooms, recreational areas, and passageways	127
among and between buildings.	128
(19) "Public use areas" means interior or exterior rooms	129
or spaces of a privately or publicly owned building that are	130
made available to the general public.	131

(20) "Controlled substance" has the same meaning as in	132
section 3719.01 of the Revised Code.	133
(21) "Disabled tenant" means a tenant or prospective	134
tenant who is a person with a disability.	135
(22) "Military status" means a person's status in "service	136
in the uniformed services" as defined in section 5923.05 of the	137
Revised Code.	138
(23) "Aggrieved person" includes both of the following:	139
(a) Any person who claims to have been injured by any	140
unlawful discriminatory practice described in division (H) of	141
section 4112.02 of the Revised Code;	142
(b) Any person who believes that the person will be	143
injured by any unlawful discriminatory practice described in	144
division (H) of section 4112.02 of the Revised Code that is	145
about to occur.	146
(24) "Unlawful discriminatory practice relating to	147
employment" means both of the following:	148
(a) An unlawful discriminatory practice that is prohibited	149
by division (A), (B), (C), (D), (E), or (F) of section 4112.02	150
<u>or by section 4112.025</u> of the Revised Code;	151
(b) An unlawful discriminatory practice that is prohibited	152
by division (I) or (J) of section 4112.02 of the Revised Code	153
that is related to employment.	154
(25) "Notice of right to sue" means a notice sent by the	155
commission to a person who files a charge under section 4112.051	156
of the Revised Code that states that the person who filed the	157
charge may bring a civil action related to the charge pursuant	158
to section 4112.052 or 4112.14 of the Revised Code, in	159

accordance with section 4112.052 of the Revised Code. 160

(B) For the purposes of divisions (A) to (F) of section 161  
4112.02 of the Revised Code, the terms "because of sex" and "on 162  
the basis of sex" include, but are not limited to, because of or 163  
on the basis of pregnancy, any illness arising out of and 164  
occurring during the course of a pregnancy, childbirth, or 165  
related medical conditions. Women affected by pregnancy, 166  
childbirth, or related medical conditions shall be treated the 167  
same for all employment-related purposes, including receipt of 168  
benefits under fringe benefit programs, as other persons not so 169  
affected but similar in their ability or inability to work, and 170  
nothing in division (B) of section 4111.17 of the Revised Code 171  
shall be interpreted to permit otherwise. This division shall 172  
not be construed to require an employer to pay for health 173  
insurance benefits for abortion, except where the life of the 174  
mother would be endangered if the fetus were carried to term or 175  
except where medical complications have arisen from the 176  
abortion, provided that nothing in this division precludes an 177  
employer from providing abortion benefits or otherwise affects 178  
bargaining agreements in regard to abortion. 179

**Sec. 4112.025.** (A) As used in this section: 180

(1) "Reasonable accommodation" may include more frequent 181  
or longer breaks, including bathroom breaks; acquisition or 182  
modification of equipment or devices necessary for performing 183  
essential job functions; assistance with manual labor; light 184  
duty; limits on lifting; modified employment schedules or food 185  
and drink policies; providing seating or allowing more frequent 186  
sitting if a job requires extended periods of standing; job 187  
restructuring, if available; temporary transfer to a vacant less 188  
strenuous or less hazardous position if qualified; break time 189

and a private, nonbathroom space to express breast milk; and 190  
modified facilities readily accessible to and usable by pregnant 191  
individuals. 192

(2) "Pregnancy" means all of the following: 193

(a) Pregnancy; 194

(b) Any illness arising out of and occurring during the 195  
course of a pregnancy; 196

(c) Childbirth; 197

(d) Medical conditions related to pregnancy or childbirth; 198

(e) Lactation or the need to express breast milk for a 199  
nursing infant. 200

(3) "Undue hardship" means any requirement that would 201  
require an employer to take an action with significant 202  
difficulty or expense. 203

(4) "No-fault attendance policy" means a policy under 204  
which an employer records absences and tardiness in an 205  
employee's personnel record, regardless of the reason for the 206  
absence or tardiness, and assigns penalties based on the number 207  
of absences or times the employee is tardy recorded in the 208  
employee's record. 209

(B) It is an unlawful discriminatory practice for any 210  
employer to do any of the following: 211

(1) Fail or refuse to make a reasonable accommodation to 212  
the known conditions related to an applicant's or employee's 213  
pregnancy if the applicant or employee requests the 214  
accommodation, unless the employer can demonstrate that the 215  
accommodation would impose an undue hardship on the operation of 216



<u>the employer's business;</u>	217
<u>(2) Require an employee to take leave under any law</u>	218
<u>providing for leave from employment or under the employer's</u>	219
<u>leave policy if the employer can make another reasonable</u>	220
<u>accommodation to the known conditions related to the employee's</u>	221
<u>pregnancy;</u>	222
<u>(3) Take adverse action against an employee in the terms,</u>	223
<u>conditions, or privileges of employment for requesting or using</u>	224
<u>a reasonable accommodation to the known conditions related to</u>	225
<u>the employee's pregnancy;</u>	226
<u>(4) Use a pregnant employee's absence or tardiness to</u>	227
<u>assign a penalty under a no-fault attendance policy when the</u>	228
<u>absence or tardiness is attributable to the known conditions</u>	229
<u>related to the employee's pregnancy.</u>	230
<u>(C) No employer shall be required by this section to do</u>	231
<u>any of the following, unless the employer does so or would do so</u>	232
<u>to make reasonable accommodations for other employees:</u>	233
<u>(1) Hire a new employee;</u>	234
<u>(2) Create a new position, including a light duty</u>	235
<u>position;</u>	236
<u>(3) Discharge any employee, transfer any employee with</u>	237
<u>more seniority, or promote any employee who is not qualified to</u>	238
<u>perform the duties of the position;</u>	239
<u>(4) Compensate an employee for more frequent or longer</u>	240
<u>breaks.</u>	241
<u>(D) Nothing in this section pertaining to refusing to make</u>	242
<u>a reasonable accommodation to the known conditions related to an</u>	243
<u>employee's pregnancy shall be construed to preempt, limit,</u>	244

diminish, or otherwise affect any other provision of law 245  
relating to discrimination on the basis of sex, or in any way 246  
diminish or invalidate the remedies, rights, and procedures that 247  
provide greater or equal protection for employees affected by 248  
pregnancy under any other provision of law. 249

**Sec. 4112.052.** (A) Subject to division (B) of this 250  
section, and except as provided in division (D) (2) of section 251  
4112.14 of the Revised Code, a person alleging an unlawful 252  
discriminatory practice relating to employment ~~in violation of~~ 253  
~~section 4112.02 of the Revised Code~~ may bring a civil action in 254  
a court of competent jurisdiction. 255

(B) (1) Except as otherwise provided in division (B) (2) of 256  
this section, a person may file a civil action under this 257  
section alleging an unlawful discriminatory practice relating to 258  
employment or a violation of division (A) of section 4112.14 of 259  
the Revised Code only if the person satisfies both of the 260  
following conditions: 261

(a) The person has first filed a charge with the Ohio 262  
civil rights commission under section 4112.051 of the Revised 263  
Code with respect to the practice complained of in the complaint 264  
for the civil action within the time period required under that 265  
section. 266

(b) One of the following occurs: 267

(i) The person receives a notice of right to sue from the 268  
Ohio civil rights commission pursuant to section 4112.051 of the 269  
Revised Code. 270

(ii) The person has requested a notice of right to sue 271  
from the Ohio civil rights commission, and the commission fails 272  
to issue the notice of right to sue within forty-five days after 273

the date the commission is permitted to grant the request under	274
division (N) of section 4112.051 of the Revised Code.	275
(iii) The Ohio civil rights commission, after a	276
preliminary investigation conducted pursuant to a charge filed	277
under section 4112.051 of the Revised Code, determines that it	278
is probable that an unlawful discriminatory practice relating to	279
employment has occurred or is occurring and the complainant,	280
after being informed by the commission of the right to file a	281
civil action under this chapter, elects to file a civil action	282
and notifies the commission of that fact.	283
(2) A person may file a civil action under this section	284
alleging an unlawful discriminatory practice relating to	285
employment or a violation of division (A) of section 4112.14 of	286
the Revised Code without satisfying the conditions of division	287
(B) (1) of this section if either of the following apply:	288
(a) The person seeks only injunctive relief.	289
(b) All of the following occur:	290
(i) The person has filed a charge with the Ohio civil	291
rights commission under section 4112.051 of the Revised Code	292
with respect to the practice complained of in the complaint for	293
the civil action within the time period required under that	294
section.	295
(ii) The person has filed a charge with the equal	296
employment opportunity commission or its successor organization	297
with respect to the practice complained of in the complaint for	298
the civil action within the time period required under federal	299
law.	300
(iii) The person has received a notice from the equal	301
employment opportunity commission or its successor organization	302

that states that the person may bring a civil action against the 303  
employer and the notice was sent in connection with the charge 304  
filed with the equal employment opportunity commission or its 305  
successor organization. 306

(3) With respect to an action described in division (B) (2) 307  
(a) of this section, the person may amend the complaint to 308  
include damages, but the amendment will relate back to the 309  
original filing date of the complaint in the action only after 310  
one of the following occurs: 311

(a) The person receives a notice of right to sue from the 312  
Ohio civil rights commission pursuant to section 4112.051 of the 313  
Revised Code. 314

(b) The person has requested a notice of right to sue from 315  
the Ohio civil rights commission, and the commission fails to 316  
issue the notice of right to sue within forty-five days after 317  
the date the commission is permitted to grant the request under 318  
division (N) of section 4112.051 of the Revised Code. 319

(c) The Ohio civil rights commission, after a preliminary 320  
investigation conducted pursuant to a charge filed under section 321  
4112.051 of the Revised Code, determines that it is probable 322  
that an unlawful discriminatory practice relating to employment 323  
has occurred or is occurring and the complainant, after being 324  
informed by the commission of the right to file a civil action 325  
under this chapter, elects to file a civil action and notifies 326  
the commission of that fact. 327

(4) With respect to an unlawful discriminatory practice 328  
relating to employment described in division (A) (24) (b) of 329  
section 4112.01 of the Revised Code, a charge filed with the 330  
Ohio civil rights commission or the equal employment opportunity 331

commission satisfies division (B) (1) (a) or divisions (B) (2) (b) 332  
(i) and (ii) of this section if both of the following apply: 333

(a) The charge is related to the conduct alleged in the 334  
complaint for the civil action; 335

(b) The charge is filed against the person who committed 336  
the unlawful discriminatory practice, the employer of the person 337  
who committed the unlawful discriminatory practice, or both the 338  
person who committed the unlawful discriminatory practice and 339  
the person's employer. 340

(C) (1) Except as provided in division (C) (2) of this 341  
section, a civil action brought under this section shall be 342  
filed within two years after the alleged unlawful discriminatory 343  
practice was committed. 344

(2) The time period to file a civil action shall be tolled 345  
for one of the following periods, as applicable: 346

(a) If a charge that is based, in whole or in part, on the 347  
same allegations and practices was filed under section 4112.051 348  
of the Revised Code less than sixty days before the time period 349  
specified under that section expires, the time period to file a 350  
civil action is tolled for the period beginning on the date the 351  
charge was filed and ending on the date that is sixty days after 352  
the charge is no longer pending with the commission. 353

(b) If a charge that is based, in whole or in part, on the 354  
same allegations and practices was filed under section 4112.051 355  
of the Revised Code sixty or more days before the time period 356  
specified under that section expires, the time period to file a 357  
civil action is tolled for the period beginning on the date the 358  
charge was filed and ending on the date the charge is no longer 359  
pending with the commission. 360

(D) A civil action based on 42 U.S.C. 1981a, 42 U.S.C. 1983, and 42 U.S.C. 1985 shall be brought within two years after the cause of action accrues. The period of limitations set forth in this division does not apply to causes of action based on 42 U.S.C. 1981 as amended by the "Civil Rights Act of 1991," Pub. L. No. 102-166.

(E) The Ohio civil rights commission may intervene in a civil action if the commission determines that the case is of public importance.

**Sec. 4112.07.** Every person subject to division (A), (B), (C), (D), or (E) of section 4112.02 or section 4112.025 of the Revised Code shall post in a conspicuous place or places on ~~his~~ the person's premises a notice to be prepared or approved by the commission that shall set forth excerpts of this chapter and other relevant information that the commission deems necessary to explain this chapter.

**Sec. 4113.71.** (A) As used in this section:

(1) "Employee" means an individual currently or formerly employed by an employer.

(2) "Employer" means the state, any political subdivision of the state, any person employing one or more individuals in this state, and any person directly or indirectly acting in the interest of the state, political subdivision, or such person.

(3) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(B) An employer who is requested by an employee or a prospective employer of an employee to disclose to a prospective employer of that employee information pertaining to the job performance of that employee for the employer and who discloses

the requested information to the prospective employer is not 390  
liable in damages in a civil action to that employee, the 391  
prospective employer, or any other person for any harm sustained 392  
as a proximate result of making the disclosure or of any 393  
information disclosed, unless the plaintiff in a civil action 394  
establishes, either or both of the following: 395

(1) By a preponderance of the evidence that the employer 396  
disclosed particular information with the knowledge that it was 397  
false, with the deliberate intent to mislead the prospective 398  
employer or another person, in bad faith, or with malicious 399  
purpose; 400

(2) By a preponderance of the evidence that the disclosure 401  
of particular information by the employer constitutes an 402  
unlawful discriminatory practice described in section 4112.02,  
4112.021, ~~or 4112.022,~~ or 4112.025 of the Revised Code. 403  
404

(C) If the court finds that the verdict of the jury was in 405  
favor of the defendant, the court shall determine whether the 406  
lawsuit brought under division (B) of this section constituted 407  
frivolous conduct as defined in division (A) of section 2323.51 408  
of the Revised Code, ~~if.~~ If the court finds by a preponderance 409  
of the evidence that the lawsuit constituted frivolous conduct, 410  
it may order the plaintiff to pay reasonable attorney's fees and 411  
court costs of the defendant. 412

(D) (1) This section does not create a new cause of action 413  
or substantive legal right against an employer. 414

(2) This section does not affect any immunities from civil 415  
liability or defenses established by another section of the 416  
Revised Code or available at common law to which an employer may 417  
be entitled under circumstances not covered by this section. 418

<b>Section 2.</b> That existing sections 4112.01, 4112.052,	419
4112.07, and 4113.71 of the Revised Code are hereby repealed.	420
<b>Section 3.</b> This act shall be known as the "Pregnancy	421
Accommodation Act."	422