

ASSEMBLY, No. 5544

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 5, 2023

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

SYNOPSIS

Requires employer to allow employee suffering from menstrual disorder to work remotely in certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT requiring remote work accommodations for employees
2 with chronic symptoms arising from qualifying menstrual
3 disorders and supplementing Title 34 of the Revised Statutes.

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. a. Unless the employer can demonstrate that allowing the
9 employee to work remotely would be an undue hardship on the
10 business operations of the employer or that the employee cannot
11 perform the essential duties of the employee's position on a remote
12 basis, upon the request of an employee, an employer shall provide
13 the option to an employee to work remotely not less than two full
14 days per month to accommodate symptoms arising from qualifying
15 menstrual disorders, including, but not limited to:

16 (1) uterine fibroids;
17 (2) endometriosis;
18 (3) polycystic ovary syndrome;
19 (4) adenomyosis;
20 (5) premenstrual syndrome;
21 (6) premenstrual dysphoric disorder;
22 (7) dysmenorrhea;
23 (8) menorrhagia; or
24 (9) any condition arising from the employee's menstrual cycle
25 that causes discomfort to the employee but does not debilitate the
26 employee to the extent that the employee would be unable to
27 perform the essential duties of the employee's position.

28 b. An employer may require an employee requesting remote
29 work in accordance with this act to provide a note from a medical
30 provider to substantiate that the employee meets the conditions set
31 forth in this act to qualify for a remote work accommodation.

32 c. An employer shall not in any way penalize the employee in
33 terms, conditions, or privileges of employment for requesting to
34 work remotely or working remotely in accordance with this act.

35 d. In the event of a dispute as to whether an employee's remote
36 work creates an undue burden on the employer or whether the
37 employee is able to perform the essential duties of the position on a
38 remote basis, the employer bears the burden of proving by a
39 preponderance of the evidence that remote work accommodations
40 would be an undue burden on the employer or that the employee
41 cannot perform the essential duties of the position on a remote
42 basis.

43 e. Any employer who violates this act shall be liable for a civil
44 penalty in an amount not to exceed \$1,000 for the first violation,
45 \$5,000 for the second violation, and \$10,000 for each subsequent
46 violation collectible by the Commissioner of Labor and Workforce
47 Development in a summary proceeding pursuant to the "Penalty
48 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

1 2. This act shall take effect on the first day of the second month
2 next following enactment.

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STATEMENT

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7 This bill provides that employers are required to provide not less
8 than two full days per month of remote work accommodations to an
9 employee experiencing qualifying conditions and symptoms related
10 to the employee's menstrual cycle. The specific conditions and
11 symptoms covered by the bill include but are not limited to:

12 (1) uterine fibroids;

13 (2) endometriosis;

14 (3) polycystic ovary syndrome;

15 (4) adenomyosis;

16 (5) premenstrual syndrome;

17 (6) premenstrual dysphoric disorder;

18 (7) dysmenorrhea;

19 (8) menorrhagia; or

20 (9) any condition arising from the employee's menstrual cycle
21 that causes discomfort to the employee but does not debilitate the
22 employee to the extent that the employee would be unable to
23 perform the essential duties of the employee's position.

24 The bill permits an employer to require an employee requesting
25 remote work in accordance with the bill to provide a note from a
26 medical provider to substantiate that the employee meets the
27 conditions set forth in the bill to qualify for a remote work
28 accommodation. The bill prohibits an employer from penalizing the
29 employee in terms, conditions, or privileges of employment for
30 requesting to work remotely or working remotely in accordance
31 with the bill.

32 Under the bill, if an employer can demonstrate that the employee
33 working remotely would create an undue burden on the employer or
34 that the employee cannot perform the essential duties of the position
35 on a remote basis, then the employer would not be required to
36 provide remote accommodations under the bill. However, the
37 employer bears the burden of proving either circumstance by a
38 preponderance of the evidence.

39 An employer who violates the bill will be liable for a civil
40 penalty in an amount not to exceed \$1,000 for the first violation,
41 \$5,000 for the second violation, and \$10,000 for each subsequent
42 violation collectible by the Commissioner of Labor and Workforce
43 Development in a summary proceeding.