COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
COMMITTEE REPORT

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: All Councilmembers

FROM: Councilmember Tommy Wells, Chairperson TW
Committee on the Judiciary and Public Safety

DATE: October 15, 2014

SUBJECT: Report on Bill 20-790, "Reproductive Health Non-Discrimination Amendment Act of 2014"

The Committee on the Judiciary and Public Safety, to which Bill 20-790, "Reproductive Health Non-Discrimination Amendment Act of 2014" was referred, reports favorably thereon with amendments, and recommends approval by the Council.

CONTENTS

I. BACKGROUND AND NEED

Bill 20-790, the "Reproductive Health Non-Discrimination Amendment Act of 2014" was introduced on May 06, 2014 by Councilmembers Grosso, Wells, McDuffie, Bowser, Alexander, Barry, Bonds, Catania, Cheh, Graham, and Orange, and referred to the Committee on the Judiciary and Public Safety. On June 23, 2014, the Committee held a public hearing on the bill. A summary of the testimony provided at the hearing is found below in section V.

Bill 20-790 expands discrimination on the basis of sex to include discrimination based upon the reproductive health decisions of an employee, their spouse, or their dependent. The committee print includes one amendment to the introduced bill. The legislation, as introduced, amended section 211 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code §2-1402.11); the committee print relocates this provision to section 105

of the Human Rights Act (D.C. Official Code §2-1401.05) where discrimination based on pregnancy, childbirth, related medical conditions, or breastfeeding is located. The inclusion of reproductive health decisions into this category of discrimination signals the focus on protecting the rights of employees and their families to make their own decisions about reproductive health, pregnancy, and family planning.

COMMITTEE REASONING

The District has some of the strongest anti-discrimination laws in the country.[1] The Human Rights Act currently protects individuals in the workplace from multiple forms of discrimination, including discrimination by reason of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, familial responsibilities, matriculation, political affiliation, genetic information of disability, source of income, status as a victim of a intrafamily offense, and place of residence or business. While federal and state laws have been enacted that demonstrate a commitment to protect individuals against employment discrimination, a loophole exists that leaves employees vulnerable to discrimination based on their reproductive health decisions.[2] The District will be part of a national trend of other states to explicitly prohibit this form of discrimination.[3]

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[1] On June 30, 2014, the Supreme Court in *Burwell v. Hobby Lobby,* 573 U.S. _____ (2014), interpreted the 1993 Religious Freedom Restoration Act ("RFRA") to state if a federal law is going to substantially burden an individual's religious freedom, the government must make sure that the law uses the "least restrictive means" to achieve its purpose. The Court determined that a closely held corporation, such as Hobby Lobby, has the same rights as an individual under RFRA, and may deny employees types of reproductive health choices that substantially contradict the religious beliefs of the board members, whom maintain full ownership rights of the corporation. While *Hobby Lobby* reflects the national discussion taking place on reproductive health decisions, including how to weigh the employee's rights versus the businesses that employ them , the *Hobby Lobby* decision does not apply to or inform the policy choices presented in Bill 20-790.

[2] There are federal protections against discrimination on the basis of gender. Title VII of the Civil Rights Act of 1964 prohibits discrimination in the workplace based on sex. It was amended by the Pregnancy Discrimination Act of 1978, which guarantees equal benefits to pregnant women. D.C. law and federal law provide nearly identical protections to women. In fact, the DC Human Rights Act (DCHRA) explicitly states as its primary purpose that it was designed to execute the policies of federal anti-discrimination laws, and thus, D.C. courts have frequently turned to federal law to interpret and implement the DCHRA. However, there are some differences. First, Title VII only applies to employers with fifteen (15) or more employees and the DCHRA applies to employers with any number of employees. Furthermore, unlike Title VII, the DCHRA additionally prohibits other people in your workplace, including the employee's supervisor and co-workers, from assisting and/or encouraging the discrimination. Lastly, the D.C. Human Rights Law is also broader than federal law because you may prove your case by showing that your employer acted wholly or partially for discriminatory reasons, and because you can bring an individual claim against your supervisor for aiding and abetting discrimination.

[3] Other states, including Michigan, New York, and North Carolina, are taking similar steps to ensure that nondiscrimination principles explicitly include reproductive health decisions. *See*, e.g., S6578B, 2013 Leg., Reg. Sess. (N.Y. 2013), http://open.nvsenate.oov/legislation/bill/S6578B-2013: H.B. 5416, 2014 Leg., Reg. Sess. (Mich. 2014), http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/pdf/2014-HIB-5416.pdf: SB 855, 2013 Leg., Reg. Sess. (N.C. 2013), http://www.ncga.state.nc.us/Sessions/2013/Bills/Senate/HTML/S855vl.html.

Discrimination on the basis of sex

The Human Rights Act prohibits sex discrimination in employment.[4] Under the law, it is illegal for an employer, employment agency, or labor organization to discriminate based upon the "race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, genetic information, disability, matriculation, or political affiliation." Specifically, under the Human Rights Act it is illegal:

1) For an employer to refuse to hire or to discharge any individual "or to otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment; [5]
2) For an employment agency to "fail or refuse to refer for employment, or to classify or refer for employment" or otherwise discriminate against any individual;[6] and
3) For a labor organization to exclude or expel any individual from its membership; "to limit, segregate, or classify its membership"; or to refuse to refer for employment any individual so as to "deprive such individual of employment opportunities.[7]

Any practice or policy that treats women differently simply because they are women constitutes discrimination on the basis of sex.[8] Such acts can either be overtly degrading (such as sexual harassment) or differential treatment toward women. Discrimination on the basis of sex can include refusing to hire or refer an individual for employment, discharging from employment or excluding from membership in a labor organization, or other adverse actions where the gender of the employee is the primary basis for different treatment. [9]

Under the law, "employee" means any individual who is working or seeking a job from an individual or company who is willing to provide compensation. It also includes a member of a labor union. "Employer" means any person who pays another individual to do work for them. This includes employment agencies and labor organizations.

Including reproductive health decisions in discrimination on the basis of sex

During the public hearing, witnesses detailed several examples of reproductive health discrimination nationwide, and revealed potential gaps in legislation that enable employers to discriminate against employees. [10] Many examples were provided of women being discriminated

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[4] D.C. Official Code §2-1402.11(a).
[5] D.C. Official Code §2-1402.11(a)(1).
[6] D.C. Official Code §2-1402.11(a)(2).
[7] D.C. Official Code §2-1402.11(a)(3).
[8] *Sex Discrimination in Employment*, The Women's Law Center of Maryland, Inc. (5th ed., 2008).
[9] *Id.*
[10] *See* Molly Redden & Dana Liebelson, *A Montana School Just Fired a Teacher for Getting Pregnant. That Actually Happens All the Time,* MOTHER JONES, available at http://www.motheriones.com/politics/2014/02/catholic-religious-schools-fired-ladv-teachers-being-pregnant. ((October 8, 2014); *See also* LaPorta v. Wal-Mart Stores, Inc., 163 F. Supp. 2d 758 (W.D. Mich. 2001) (holding that firing an employee for taking time off work in order to undergo infertility treatment is not sex discrimination,

for seeking to prevent pregnancy, pursuing pregnancy through the use of assisted reproductive technology, or having sex outside of marriage. Bill 20-790 addresses these potential gaps in the Human Rights Act by explicitly including discrimination based on the reproductive health decisions of an employee or their dependent as a type of discrimination on the basis of sex, adding it to a non-exhaustive list that includes discrimination based on pregnancy, childbirth, related medical conditions, or breastfeeding. As amended, Bill 20-790 ensures that employees, as well as their spouses and dependents, are able to make their reproductive health care decisions without incurring adverse employment consequences because of their employers' disapproval of those decisions.

For the purposes of the Human Rights Act, the committee print defines "reproductive health decisions" to include the decision by an employee or the employee's dependent related to the use of a particular drug, device, or medical service, including contraception or fertility control, or the initiation or termination of a pregnancy. The definition was drafted this way in order to be inclusive of advances in reproductive health. By protecting reproductive health decisions of employees and their dependents, Bill 20-790 will ensure that an employer's personal beliefs do not trump a woman's health and access to the health care that she may choose as best for her. Bill 20-790 makes clear that an employee's standing in the workplace should be determined by performance, not based on personal, private health care decisions.

Bill 20-790 is not about insurance coverage, but rather about employment discrimination. This bill would prevent an employer from discriminating against employees based on reproductive health decisions, regardless of how the employer became aware of those decisions. The Health Insurance Portability and Accountability Act (HIPAA) offers a high level of confidentiality with regard to medical care and decisions. However, there may be unintended disclosures of private information to the employer through health insurance utilization summaries, which are distributed to employers on a regular basis. In these reports, although personally identifiable information is excluded to comply with HIPAA privacy protections, in some cases, an individual's identity may still be deduced by an employer based on the nature of the service and composition of the insured class reported in the summaries. While a HIPAA violation would be actionable, there are other avenues in which an employer may become aware of personal information, such as social media, electronic surveillance, or even disclosed by a personal admission of the employee. Employees must be protected from discrimination based on the reproductive health care decisions they make.

For all the reasons explained above, the Committee recommends approval of this bill as amended.

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because infertility is not part of "pregnancy, childbirth, or related medical conditions "); *See* Teacher Appeals Firing: Appleton Catholic System Cites In Vitro Pregnancy, JOURNAL SENTINEL (Madison, Wis, May 11, 2006) May 11, 2006, http://news.google.com/newspapers?nid=1683&dat=2006051 l&id=-(stating Kelly Romenesko was fired for using in vitro fertilization, an investigator for the state's agency charged with enforcing anti-discrimination laws upheld her termination, saying she had not been fired for becoming pregnant but for undergoing in vitro fertilization, which was not protected under state law.

II. LEGISLATIVE CHRONOLOGY

May 6, 2014	Bill 20-790, "Reproductive Health Non-Discrimination Amendment Act of 2014," is co-introduced by Chairman Grosso, Wells, McDuffie, Bowser, Alexander, Barry, Bonds, Catania, Cheh, Graham, and Orange
May 6, 2014	Bill 20-790 is referred to the Committee on the Judiciary and Public Safety.
May 16, 2014	Notice of Intent to Act on Bill 20-790 is published in the *District of Columbia Register.*
May 30, 2014	Notice of a Public Hearing is published in the *District of Columbia Register.*
June 20, 2014	Revised and Abbreviated Notice of a Public Hearing is published in the *District of Columbia Register.*
June 23, 2014	The Committee on the Judiciary and Public Safety holds a public hearing on Bill 20-790.
October 15, 2014	The Committee on the Judiciary and Public Safety marks-up Bill 20-790.

III. POSITION OF THE EXECUTIVE

Monica Palacio, Director, Office of Human Rights of the District of Columbia, testified in support of Bill 20-790, stating the agency wants to ensure that individuals are protected from workplace discrimination from an employer or employment agency based on reproductive decision making. Director Palacio recommended to the Committee that the bill would be better placed in D.C. Code §2-1401.05, where it would more naturally fit because this is where discrimination on the basis of sex is defined. Director Palacio also stated by placing the amendment in this section, it would automatically apply to labor unions, employment agencies, and other training job programs.[11] Finally, Director Palacio recommended the Council consider how this provision may interact with religious exception in the statute, under D.C. Official Code §2-1401.03.[12]

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[11] Testimony of Director Monica Palacio, pg. 6.

[12] The exception in §2-1401.03 narrowly applies only to employers that are operated, supervised or controlled by or in connection with a religious or political organization, and are operated for charitable or educational purposes, and relates specifically to limiting employment. Bill 20-790 has broader application beyond the context of hiring practices, and relates to all employment related interactions.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee received no testimony or comments from Advisory Neighborhood Commissions.

V. SUMMARY OF TESTIMONY AND STATEMENTS

The Committee on the Judiciary and Public Safety held a public hearing on Bill 20-790 on Monday, June 23, 2014. The testimony summarized below is from that hearing. A copy of the witness list is attached to this report; the video recording of the hearings (available online at http://oct.dc.gov/services/on_demand_video/channel_13.asp) is incorporated by reference. A copy of submitted testimony is part of the hearing record and is available through the Office of the Secretary.

The following witnesses testified at the hearing:

Gretchen Borchelt, Senior Counsel and Director of State Reproductive Health Police at National Women's Law Center, testified in support of Bill 20-790, and provided examples of employers discriminating against women for seeking to prevent pregnancy, women pursuing pregnancy through the use of assisted reproductive technology, and women having sex outside marriage. Ms. Borchelt stated she believes Bill 20-790 is an important step for the Council to fulfill the promise of the Human Rights Act, and ensure that its citizens are protected against employer discrimination in all aspects of their lives.

Casey Mattox, Senior Counsel, Alliance Defending Freedom, testified against of Bill 20-790, stating that the bill would limit the ability of pro-life employers to promote their values among their employees, and would be unnecessarily restrictive on businesses.

David Nolan, Director of Communications, Catholics for Choice, testified in strong support of Bill 20-323, stating that the bill represents a great protection for women who work for Catholic institutions, but do not share the same ideological beliefs as their employers. Additionally, Mr. Nolan stated he believes the bill would allow all workers to be able to make their own reproductive health decisions without the fear of retribution from their employers.

Katie Breslin, Domestic Associate, Catholics for Choice, testified in support of the bill and shared some stories of women in the D.C. area who have been forced to hide their reproductive health decisions because of fear of retaliation at work. Ms. Breslin testified about a former employee at a Catholic Church who stated she faced discrimination about her reproductive health choices, and another employee of Catholic institution who moved jobs to be able to allow her to freely use FDA-approved methods of contraception.

Michael Scott, Director, D.C. Catholic Conference, testified against Bill 20-790. Mr. Scott stated he believes the bill would undermine the ability of religious employers to operate their organizations according to their religious beliefs.

Cynthia DeSimone *(no written statement)*, General Counsel, Archdiocese of Washington, testified that she believes the bill is unfairly constraining on the religious liberties of businesses and organizations in the District, and is unjust and unnecessary to protect the rights of employees within religious organizations. Ms. DeSimione continued to state that she believes this is a government interference on the internal governance of religious organizations.

Noel Francisco *(no written statement)*, Partner, Jones Day, reiterated the beliefs of his co-panelists, Ms. DeSimione and Mr. Scott, and stated his belief that the bill would undermine the ability of religious employers to operate their organizations according to their religious beliefs.

Michelle Woords, Legislative Organizer, Planned Parenthood of Metropolitan Washington, DC, testified in support of the bill, stating that every woman should have the right to receive an FDA-approved medication to help control or maintain her reproductive health, and it is the responsibility of the government to protect this right.

Post-Hearing Submitted Testimony

Allison Power, member of "Cover All Her Health", submitted testimony in support of the bill, stating all women working in the District should have access the full range of FDA-approved contraceptive methods. Additionally, Ms. Power stated that given the unique economy of the District, this amendment is critical to ensuring that reproductive health decisions, which are in no way different from routine care decisions, are made in the confidentiality and privacy of the relationship between patients and providers, free from coercion and discrimination.

VI. IMPACT ON EXISTING LAW

Bill 20-790 makes one amendment to the District of Columbia Official Code, which amends the definition of discrimination based on sex contained in D.C. Code §2-1405.05 to include reproductive health decisions as a category of discrimination.

VII. FISCAL IMPACT

The attached October 10, 2014 Fiscal Impact Statement from the Chief Financial Officer states that funds are sufficient to implement Bill 20-790. This legislation requires no additional resources or personnel.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1 States the short title of Bill 20-790.

Section 2 Amends D.C. Code § 2-1405.05 to include reproductive health decisions as a qualifying form of discrimination on the basis of sex.

States that for the purposes of this section, "reproductive health decisions" included decisions by an employee, the employee's spouse, or the employee's dependent related to the use or intended use of a particular drug, device, or medical service, including the use or intended use of contraception or fertility control or the planned or intended initiation or termination of a pregnancy.

Section 3 Adopts the fiscal impact statement.

Section 4 Provides the effective date.

IX. COMMITTEE ACTION

On October 15, 2014, the Committee met to consider Bill 20-790. The meeting was called to order at 12:32pm and after ascertaining a quorum (Chairperson Wells and Councilmembers Bonds, Cheh, and Evans present), Chairperson Wells gave opening remarks. Chairperson Wells then moved the print of Bill 20-790, with leave for staff and the General Counsel to make technical changes and conforming changes. Hearing no further discussion, the vote to approve the print was unanimous. Chairperson Wells then moved the report, with leave for staff to make technical, editorial, and conforming changes. After an opportunity for discussion, the vote to approve the report was unanimous. The meeting adjourned at 12:45pm.

X. ATTACHMENTS

1. Bill 20-790 as introduced.
2. Witness list.
3. Fiscal impact statement.
4. Legal sufficiency determination by the General Counsel.
5. Comparative Print.
6. Committee Print for Bill 20-790.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council

Date : May 08, 2014

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Legislative Meeting on Tuesday, May 6, 2014. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Reproductive Health Non-Discrimination Amendment Act of 2014", B20-0790

INTRODUCED BY: Councilmembers Grosso, Wells, McDuffie, Bowser, Alexander, Barry, Bonds, Catania, Cheh, Graham, and Orange

CO-SPONSORED BY: Chairman Mendelson

The Chairman is referring this legislation to the Committee on Judiciary and Public Safety.

Attachment

cc: General Counsel
Budget Director
Legislative Services

Councilmember Marion Barry

Councilmember David Grosso

Councilmember Anita Bonds

Councilmember Tommy Wells

Councilmember David Catania

Councilmember Kenyan McDuffie

Councilmember Mary M. Cheh

Councilmember Muriel Bowser

Councilmember Jim Graham

Councilmember Yvette M. Alexander

Councilmember Vincent Orange

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember David Grosso introduced the following bill, which was referred to the Committee on _____.

An ACT to amend the Human Rights Act of 1977 to ensure that individuals are protected from discrimination by an employer or employment agency based an individual's or dependent's reproductive health decision making.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Reproductive Health Non-Discrimination Amendment Act of 2014".

Sec. 2. Section 211 (D.C. Official Code § 2-1402.11) of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended to add a subsection (d) to read as follows:

" (d) An employer or employment agency shall not discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of or on the basis of the individual's or a dependent's reproductive health decision making, including a decision to use or access a particular drug, device or medical service, because of or on the basis of an employer's personal beliefs about such services."

(b) Nothing in this section shall be construed to limit any rights of an employee provided through any other provision of law or collective bargaining unit.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARYAND PUBLIC SAFETY
PUBLIC HEARING
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004
AGENDA AND WITNESS LIST

COUNCILMEMBER TOMMY WELLS, CHAIRPERSON
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

ANNOUNCES A PUBLIC HEARING ON

Bill 20-345, "Workman's Compensation Statute of Limitations Amendment Act of 2013"
Bill 20-790, "Reproductive Health Non-Discrimination Act of 2014"
Bill 20-757, "Wage Transparency Amendment Act of 2014"

Monday, June 23, 2014
11 a.m.
John A. Wilson Building, Room 412
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

Agenda and Witness List

A. **CALL TO ORDER**

B. **OPENING REMARKS**

C. **BILL 20-345 "WORKMAN'S COMPENSATION STATUTE OF LIMITATIONS AMENDMENT ACT OF 2013"**

PUBLIC WITNESSES

1.	James W. Tageleri, Esq.	Trial Lawyers Association of Metropolitan DC

GOVERNMENT WITNESS

1.	Thomas Luparello	Acting Director, Department of Employment Services

D. **BILL 20-790 "REPRODUCTIVE HEALTH NON-DISCRIMINATION ACT OF 2014"**

PUBLIC WITNESSES

1.	Michael Sindram **(absent)**	DC Justice for All/ Disabled Veteran
2.	Michael A. Lee **(absent)**	Veteran
3.	Casey Mattox	Senior Counsel, Alliance Defending Freedom
4.	David Nolan	Director of Communications, Catholics for Choice
5.	Katie Breslin	Domestic Associate, Outreach, Catholics for Choice
6.	Michael Scott	Director, D.C. Catholic Conference
7.	Cynthia DeSimone **(No Written Statement)**	Chancellor and General Counsel, Archdiocese of Washington

Government of the District of Columbia
Office of the Chief Financial Officer

Jeff DeWitt
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Jeff DeWitt** **Chief Financial Officer**
DATE:	**October 10, 2014**
SUBJECT:	**Fiscal Impact Statement – Reproductive Health Non-Discrimination Amendment Act of 2014**
REFERENCE:	**Bill 20-790, Draft Committee Print as shared with the Office of Revenue Analysis on October 1, 2014**

Conclusion

Funds are sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

Background

The District's Human Rights' Law[1] prohibits discrimination against any employee or prospective employee on a basis other than merit, including the individual's gender.

The bill broadens the definition of discrimination to include an employee's reproductive health decisions. Reproductive health decisions include the following:

- use of particular drugs, devices, or services;
- use or access to contraception;
- initiation or termination of a pregnancy; or
- use or access to programs about sexual health, family planning, or sexual education.

Financial Plan Impact

Funds are sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill. The Office of Human Rights (OHR) is responsible for receiving and investigating discrimination cases. OHR currently handles discrimination cases and this bill will not significantly increase

[1] Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; 24 DCR 6038).

caseloads because cases of this nature can already be brought forward as sex discrimination cases. OHR can absorb any costs associated with the bill's implementation.

OFFICE OF THE GENERAL COUNSEL
Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: **Councilmember Tommy Wells**

FROM: **V. David Zvenyach, General Counsel**

Certified by V. David Zvenyach
General Counsel
Council of the District of Columbia

DATE: **October 14, 2014**

RE: **Legal sufficiency determination for Bill 20-790, the Reproductive Health Non-Discrimination Amendment Act of 2014**

The measure is legally and technically sufficient for Council consideration.

Bill 20-790 amends section 105 of the Human Rights Act of 1977, effective July 17, 1985 (D.C. Law 6-8; D.C. Official Code § 2-1401.05), to provide that discrimination on the basis of sex includes discrimination based on reproductive health decisions. Bill 20-790 defines the term "reproductive health decisions" to include decisions by "an employee, an employee's dependent, or an employee's spouse, related to the use or intended use of a particular drug, device, or medical service, including the use or intended use of contraception or fertility control or the planned or intended initiation or termination of a pregnancy."

I am available if you have any questions.

VDZ

Reproductive Health Non-Discrimination Amendment Act of 2014
Comparative Print
October 15, 2014

DIVISION I. GOVERNMENT OF DISTRICT
TITLE 2. GOVERNMENT ADMINISTRATION
CHAPTER 14. HUMAN RIGHTS
UNIT A. HUMAN RIGHTS LAW
SUBCHAPTER I. GENERAL PROVISIONS

D.C. Code § 2-1401.05 (2014)

§ 2-1401.05. Discrimination based on pregnancy, childbirth, ~~related medical conditions, or breastfeeding~~ **related medical conditions, breastfeeding, or reproductive health decisions**

(a) For the purposes of interpreting this chapter, discrimination on the basis of sex shall include, but not be limited to, discrimination on the basis of pregnancy, childbirth, ~~related medical conditions, or breastfeeding~~ **related medical conditions, breastfeeding, or reproductive health decisions**.

(b) Women affected by pregnancy, childbirth, ~~related medical conditions, or breastfeeding~~ **related medical conditions, breastfeeding, or reproductive health decisions** shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and this requirement shall include, but not be limited to, a requirement that an employer must treat an employee temporarily unable to perform the functions of her job because of her pregnancy-related condition in the same manner as it treats other employees with temporary disabilities.

(c) For the purposes of this section, the term reproductive health decisions includes a decision by an employee, the employee's dependent, or the employee's spouse related to the use or intended use of a particular drug, device, or medical service, including the use or intended use of contraception or fertility control or the planned or intended initiation or termination of a pregnancy.

COMMITTEE PRINT
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
OCTOBER 15, 2014

A BILL

20-790

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Human Rights Act of 1977 to ensure that individuals are protected from discrimination by an employer, employment agency, or labor organization, based on an individual's or dependent's reproductive health decisions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Reproductive Health Non-Discrimination Amendment Act of 2014".

Sec. 2. Section 105 of the Human Rights Act of 1977, effective July 17, 1985 (D.C. Law 6-8; D.C. Official Code § 2-1401.05), is amended as follows:

(a) Strike the phrase "related medical conditions, or breastfeeding" and inserting the phrase "related medical conditions, breastfeeding, or reproductive health decisions" in its place.

(b) A new subsection (c) is added and to read as follows:

"(c) For the purposes of this section, the term "reproductive health decisions" includes a decision by an employee, an employee's dependent, or an employee's spouse related to the use or intended use of a particular drug, device, or medical service, including the use or intended use of contraception or fertility control or the planned or intended initiation or termination of a pregnancy.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.