



Rep. Laura Faver Dias

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10300HB5294ham004

LRB103 37634 SPS 72418 a

1 AMENDMENT TO HOUSE BILL 5294

2 AMENDMENT NO. _____. Amend House Bill 5294 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Family Neonatal Intensive Care Leave Act.

6 Section 5. Definitions. As used in this Act:

7 "Child" means an employee's son or daughter who is a
8 biological, adopted, or foster child, a stepchild, a legal
9 ward, or a child of a person standing in loco parentis.

10 "Department" means the Department of Labor.

11 "Employee" has the meaning ascribed to that term in
12 Section 2 of the Illinois Wage Payment and Collection Act and
13 also includes any employee of the State of Illinois.

14 "Employer" has the meaning ascribed to that term in
15 Section 2 of the Illinois Wage Payment and Collection Act and
16 also includes the State of Illinois.

1 "Neonatal intensive care unit" or "NICU" means a special
2 care unit that provides medical treatment to premature and
3 critically ill infants.

4 Section 10. Neonatal intensive care family leave.

5 (a) An employee of an employer with 16 or more employees
6 and no more than 50 employees shall be entitled to use a
7 maximum of 10 days of unpaid neonatal intensive care leave
8 while any child of the employee is a patient in a neonatal
9 intensive care unit. An employee of an employer with 51 or more
10 employees shall be entitled to use 20 days of unpaid neonatal
11 intensive care leave while a child of the employee is a patient
12 in a neonatal intensive care unit. Leave may be taken
13 continually or intermittently at the employee's selection. An
14 employer may require that leave be taken in minimum increments
15 of not less than 2 hours in duration.

16 (b) An employee who is entitled to leave under the Family
17 and Medical Leave Act and takes leave under this Act shall be
18 granted, upon completion of and in addition to any leave taken
19 under the Family and Medical Leave Act, any leave available
20 under this Act. An employee shall be entitled to leave for the
21 maximum number of days specified in subsection (a) or the
22 length of time the employee's child was a patient in a neonatal
23 intensive care unit, whichever is less. An employer shall not
24 require that an employee use any paid leave available to the
25 employee for any reason instead of leave the employee is

1 entitled to under this Act. An employee who is entitled to take
2 paid or unpaid leave, including family, medical, sick, annual,
3 personal, or similar leave, from employment, under federal,
4 State, or local law, a collective bargaining agreement, or an
5 employment benefits program or plan, may elect to substitute
6 any period of leave for an equivalent period of leave provided
7 under this Act.

8 (c) Upon the conclusion of leave taken under this Act, an
9 employee shall be reinstated to his or her former position or a
10 substantially equivalent one with no loss of benefits held or
11 accrued prior to taking leave. During the period of leave, any
12 health insurance benefits shall be maintained by an employer
13 as if an employee had not taken leave. An employer shall not
14 require an employee who uses unpaid neonatal intensive care
15 leave to provide a replacement worker.

16 (d) If an employee takes unpaid neonatal intensive care
17 leave under this Section, an employer may require reasonable
18 verification of the employee's child's length of stay in a
19 neonatal intensive care unit. As part of a reasonable
20 verification, an employer shall not request any confidential
21 information protected by the Health Insurance Portability and
22 Accountability Act of 1996 or other law.

23 Section 15. Unlawful employer practices.

24 (a) It is unlawful for any employer to take any adverse
25 action against an employee because the employee:

1 (1) exercises rights or attempts to exercise rights
2 under this Act;

3 (2) opposes practices which such employee believes to
4 be in violation of this Act; or

5 (3) supports the exercise of rights of another under
6 this Act.

7 (b) Exercising rights under this Act includes, but is not
8 limited to, filing an action or instituting or causing to be
9 instituted any proceeding under or related to this Act,
10 providing or agreeing to provide any information in connection
11 with any inquiry or proceeding relating to any right provided
12 under this Act, or testifying to or agreeing to testify in any
13 inquiry or proceeding relating to any right provided under
14 this Act.

15 Section 20. Department responsibilities.

16 (a) The Department shall administer and enforce this Act
17 and adopt rules under the Illinois Administrative Procedure
18 Act for the purpose of this Act. The Department shall have the
19 powers and the parties shall have the rights provided in the
20 Illinois Administrative Procedure Act for contested cases. The
21 Department shall have the power to conduct investigations in
22 connection with the administration and enforcement of this
23 Act, including the power to conduct depositions and discovery
24 and to issue subpoenas. If the Department finds cause to
25 believe that this Act has been violated, the Department shall

1 notify the parties in writing and the matter shall be referred
2 to an administrative law judge to schedule a formal hearing in
3 accordance with hearing procedures established by rule.

4 (b) The Department is authorized to impose civil penalties
5 prescribed in Section 25 in administrative proceedings that
6 comply with the Illinois Administrative Procedure Act and to
7 supervise the payment of the unpaid wages and damages owing to
8 the employee or employees under this Act. The Department may
9 bring any legal action necessary to recover the amount of
10 unpaid wages, damages, and penalties, and the employer shall
11 be required to pay the costs. Any sums recovered by the
12 Department on behalf of an employee under this Act shall be
13 paid to the employee or employees affected. However, 20% of
14 any penalty collected from the employer for a violation of
15 this Act shall be deposited into the Neonatal Intensive Care
16 Leave Fund, a special fund created in the State treasury, and
17 used for the enforcement of this Act.

18 (c) The Attorney General may bring an action to enforce
19 the collection of any civil penalty imposed under this Act.

20 Section 25. Enforcement.

21 (a) An employee who believes his or her rights under this
22 Act or any rule adopted under this Act have been violated may,
23 within 60 days after the date of the last event constituting
24 the alleged violation for which the action is brought, file a
25 complaint with the Department or file a civil action.

1 (b) An employer that violates any provision of this Act or
2 any rule adopted under this Act is subject to a civil penalty
3 for each employee affected not to exceed \$5,000. Any
4 continuous period of time that any child of an employee is a
5 patient in a neonatal intensive care unit, during which time
6 the employer is found to have violated the employee's rights
7 under this Act, shall constitute a single violation.

8 (c) A civil action may be brought in the circuit court by
9 an employee to enforce this Act. The circuit court may enjoin
10 any act or practice that violates or may violate this Act and
11 may order any other equitable relief that is necessary and
12 appropriate to redress the violation or to enforce the Act.

13 Section 90. The State Finance Act is amended by adding
14 Section 5.1015 as follows:

15 (30 ILCS 105/5.1015 new)

16 Sec. 5.1015. The Neonatal Intensive Care Leave Fund."