

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1551

Session of
1989

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MAY 23, 1989

REFERRED TO COMMITTEE ON LABOR RELATIONS, MAY 23, 1989

AN ACT

1 Providing for maternity leave; establishing protection of
2 employment status and benefits; and providing remedies for
3 failure of an employer to comply.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Maternity
8 Leave Act.

9 Section 2. Legislative findings; declaration of purpose.

10 (a) Findings.--The General Assembly finds as follows:

11 (1) Nearly one-half of mothers with infants under one
12 year of age work outside of the home.

13 (2) The number of single-parent households and two-
14 parent households in which both parents work is increasing
15 dramatically.

16 (3) It is important for the development of children and
17 the family unit that mothers be able to participate in

1 postnatal child rearing.

2 (4) The lack of employment policies to accommodate
3 working mothers forces many individuals to choose between job
4 security and parenting.

5 (b) Declaration of purpose.--The General Assembly declares
6 the following to be the purposes of this act:

7 (1) To balance the demands of the workplace with the
8 needs of families.

9 (2) To promote the economic security and stability of
10 families.

11 (3) To entitle female employees and, under emergency
12 circumstances, male employees to take reasonable leave for
13 the birth or adoption of a child without the risk of
14 termination or retaliation by employers.

15 Section 3. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Board." The Pennsylvania Labor Relations Board.

20 "Cafeteria plan." The term as defined in section 125 of the
21 Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 125).

22 "Employee." An individual engaged in service to an employer
23 for monetary remuneration or other valuable consideration. The
24 term does not include:

25 (1) an individual who is employed part time; or

26 (2) a person employed by the individual's parents,
27 spouse or child.

28 "Employer." A person, the Commonwealth or any of its
29 political subdivisions, or any board, department, commission,
30 agency or instrumentality of the Commonwealth or a political

1 subdivision which employs 50 or more employees in a workplace.

2 "Employment benefits." Benefits available to the employee,
3 paid for in whole or in part by the employer, including, but not
4 limited to, insurance, sick leave, annual leave, educational
5 benefits and pension.

6 "Maternity leave." Absence from employment for the purpose
7 of giving birth to a child and providing postpartum care, or for
8 the purpose of adopting a child who is five years of age or
9 younger or who is 17 years of age or younger with special needs.

10 "Person." One or more individuals, partnerships,
11 associations, organizations, corporations, trustees in
12 bankruptcy or receivers.

13 "Special needs." A physical, mental or emotional condition
14 or handicap, or a genetic condition which indicates a high risk
15 of developing a disease or handicap.

16 "Workplace." Any building or work area or contiguous group
17 of buildings or work areas at one geographical location used by
18 an employer to conduct business.

19 Section 4. Maternity leave.

20 (a) General rule.--A female employee who has been employed
21 by the same employer for at least 12 consecutive months as a
22 full-time employee shall be entitled to receive maternity leave.

23 (b) Exception.--A male employee who meets the probationary
24 period requirements of subsection (a) shall be entitled to
25 receive maternity leave if his spouse dies or if his spouse is
26 substantially disabled and unable to care for the child.

27 (c) Notice requirement.--In order to be eligible for
28 maternity leave under subsection (a), a female employee must
29 give her employer at least four weeks' notice of her anticipated
30 date of departure from employment and her anticipated date of

1 return to employment, except in the case of an emergency or a
2 premature birth.

3 (d) Exemption.--An employer shall be exempt from any
4 requirement to provide maternity leave, if:

5 (1) the employer provides employee benefits through a
6 cafeteria plan that includes maternity leave benefits similar
7 to those provided by this act;

8 (2) maternity benefits are specifically excluded in a
9 collective bargaining agreement; or

10 (3) the majority of employees of such employer, who vote
11 on the question by secret ballot as a concerted activity,
12 specifically reject the provision of maternity leave as
13 otherwise required by this act for a time certain period.

14 Section 5. Entitlement.

15 (a) General rule.--A female employee shall be entitled to
16 six weeks of maternity leave.

17 (b) Paid leave discretionary.--Maternity leave may be with
18 pay, with partial pay or without pay at the discretion of the
19 employer. A female employee shall, however, have the right to
20 utilize any accrued sick, vacation or personal leave during the
21 period of maternity leave.

22 (c) Pregnancy disability leave.--Any disability leave
23 provided by an employer for a female employee who is disabled on
24 account of pregnancy, childbirth or related medical conditions
25 shall be considered maternity leave for purposes of this act.

26 (d) Restoration of position.--Any female employee who
27 exercises the rights established by this act shall be entitled,
28 upon return to employment:

29 (1) to be restored to her previous position; or

30 (2) to be placed in a similar position with the same

1 status, compensation, length of service credit and seniority,
2 wherever applicable, that she enjoyed when maternity leave
3 commenced.

4 (e) Benefits and seniority.--Benefits accrued to the time of
5 maternity leave shall not be lost. The employer may discontinue
6 accrual of seniority and payment of benefits, except health
7 benefits, during the female employee's leave. Health benefits
8 shall be maintained during the leave at the same level as the
9 employee had prior to taking the maternity leave.

10 (f) Extension.--The employer shall extend such maternity
11 leave, upon request of the employee, for a total period not to
12 exceed 13 weeks, unless the employer demonstrates that he is
13 unable to reasonably accommodate the employee's request without
14 undue hardship on the conduct of the employer's business. A
15 female employee may request an extension of maternity leave at
16 least two weeks prior to the conclusion of the six weeks of
17 maternity leave.

18 Section 6. Refusal to provide maternity leave.

19 (a) Procedure.--If an employer fails to comply with the
20 requirements of this act, an aggrieved female employee may sign
21 and file a written complaint with the board.

22 (b) Powers of board.--The board shall process and adjudicate
23 a complaint filed under subsection (a) in the same manner it
24 processes and adjudicates a charge of an unfair labor practice
25 under the act of June 1, 1937 (P.L.1168, No.294), known as the
26 Pennsylvania Labor Relations Act.

27 (c) Order of board.--If the board determines that an
28 employer has violated section 4 or 5, the board shall serve upon
29 the employer an order requiring the employer to reinstate the
30 aggrieved employee with back pay. The board shall also have the

1 power to order the employer to pay the aggrieved employee's
2 reasonable attorney fees.

3 (d) Rules and regulations.--The board may promulgate rules
4 and regulations to administer and enforce this act.

5 Section 7. Construction of act.

6 This act shall be construed to guarantee females the
7 fundamental right to full participation in family life without
8 denying them the basic right to participate fully and equally in
9 the work force. The right to take maternity leave shall be
10 exercised solely at the discretion of the female employee.

11 Section 8. Civil rights.

12 This act shall not be construed to impinge upon or otherwise
13 alter rights and protections provided by the act of October 27,
14 1955 (P.L.744, No.222), known as the Pennsylvania Human
15 Relations Act.

16 Section 9. Effective date.

17 This act shall take effect in 120 days.