THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1035 Session of 2021

INTRODUCED BY ZABEL, SANCHEZ, HOHENSTEIN, HILL-EVANS, GALLOWAY, SCHWEYER, ROZZI, HOWARD, D. WILLIAMS, SCHLOSSBERG, FREEMAN, PASHINSKI, DRISCOLL, WEBSTER, DELLOSO, ISAACSON, O'MARA, LEE, McCLINTON, WARREN AND KINSEY, MARCH 26, 2021

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 26, 2021

AN ACT

- Providing for public health emergency leave relating to COVID-19; prohibiting retaliatory personnel action by employers; imposing duties on the Department of Labor and Industry; and imposing a penalty.
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- 3 CHAPTER 1
- 4 PRELIMINARY PROVISIONS
- 5 Section 101. Short title.
- 6 This act shall be known and may be cited as the Family and
- 7 Caregiver COVID-19 Employee Protection Act.
- 8 Section 102. Definitions.
- 9 The following words and phrases when used in this act shall
- 10 have the meanings given to them in this section unless the
- 11 context clearly indicates otherwise:
- "COVID-19 disaster emergency." The declaration of disaster
- 13 emergency issued by the Governor on March 6, 2020, published at
- 14 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of
- 15 disaster emergency.
- 16 "Department." The Department of Labor and Industry of the
- 17 Commonwealth.
- 18 "Employee." An individual who is employed by an employer
- 19 doing business in this Commonwealth.
- "Employer." As defined in the act of January 17, 1968
- 21 (P.L.11, No.5), known as The Minimum Wage Act of 1968.
- 22 "Family member." Any of the following:
- 23 (1) A biological, adopted or foster child, stepchild or
- 24 legal ward, a child of a domestic partner or a child to whom
- 25 the employee stands in loco parentis, regardless of age.
- 26 (2) A biological parent, foster parent, stepparent or
- 27 adoptive parent or legal guardian of an employee or an
- 28 employee's spouse or domestic partner or a person who stood
- in loco parentis when the employee or the employee's spouse
- or domestic partner was a minor child.

- 1 (3) A person to whom the employee is legally married
- 2 under the laws of any state or a domestic partner of an
- 3 employee as registered under the laws of any state or
- 4 political subdivision.
- 5 (4) A grandparent, grandchild or sibling, whether of a
- 6 biological, foster, adoptive or step relationship, of the
- 7 employee or the employee's spouse or domestic partner.
- 8 (5) A person for whom the employee is responsible for
- 9 providing or arranging care, including helping that
- individual obtain diagnostic, preventive, routine or
- 11 therapeutic health treatment.
- 12 (6) Any other individual related by blood or whose close
- association with the employee is the equivalent of a family
- 14 relationship.
- "Public health emergency leave." Paid sick leave provided by
- 16 an employer to an employee affected by the COVID-19 disaster
- 17 emergency under chapter 3 (relating to public health emergency
- 18 leave).
- "Retaliatory personnel action." Any actual or threatened
- 20 discharge, suspension, demotion or punishment to an employee for
- 21 exercising their rights or using leave that is provided by this
- 22 act.
- "Secretary." The Secretary of the Department of Labor and
- 24 Industry of the Commonwealth.
- 25 CHAPTER 3
- 26 PUBLIC HEALTH EMERGENCY LEAVE
- 27 Section 301. Leave requirement.
- 28 (a) General rule. -- Each employer in this Commonwealth shall
- 29 provide 80 hours of paid leave per year for an employee:
- 30 (1) being treated for a COVID-19 diagnosis;

- 1 (2) to care for a family member subject to quarantine
- due to COVID-19 under Federal, State or local government
- 3 order or advice of a health care provider; or
- 4 (3) to care for a child under 18 years of age whose
- 5 school or child care provider is closed or unavailable for
- 6 reasons related to COVID-19.
- 7 (b) Prohibition. -- Public health emergency leave may not be
- 8 used to replace or otherwise substitute for any paid or unpaid
- 9 sick leave or other leave provided to the employee.
- 10 CHAPTER 5
- 11 PROTECTION FROM RETALIATION
- 12 Section 501. Prohibited action.
- An employer in this Commonwealth may not engage in
- 14 retaliatory personnel action against an employee who takes
- 15 public health emergency leave.
- 16 Section 502. Notice.
- 17 (a) Workplace posting. -- Each employer shall post and keep
- 18 posted, in conspicuous places on the premises of the employer
- 19 where notices to employees are customarily posted, a notice, to
- 20 be prepared or approved by the secretary, of the requirements
- 21 described in this act.
- 22 (b) Initial notice by employee. -- Before an employee takes
- 23 public health emergency leave, the employee shall provide the
- 24 employer with as much notice as practicable.
- 25 (c) Ongoing notice. -- An employer may require an employee to
- 26 continue to notify the employer of the ongoing use of public
- 27 health emergency leave after the initial notice under subsection
- 28 (b).
- 29 CHAPTER 7
- 30 ADMINISTRATION AND ENFORCEMENT

- 1 Section 701. Duties of department.
- 2 The department shall:
- 3 (1) Have authority to enforce this act.
- 4 (2) Be authorized to coordinate implementation and
- 5 enforcement of this act.
- 6 (3) Promulgate appropriate guidelines or regulations for
- 7 this act.
- 8 (4) Post the guidelines or regulations and information
- 9 about the rights and duties of employees and employers under
- 10 this act on the department's publicly accessible Internet
- 11 website.
- 12 Section 702. Penalty.
- An employer that violates any provisions of this act shall be
- 14 subject to a \$5,000 fine.
- 15 CHAPTER 9
- 16 MISCELLANEOUS PROVISIONS
- 17 Section 901. Construction.
- Nothing in this act shall be construed in any way to diminish
- 19 the rights or benefits that an employee is entitled to under any
- 20 of the following:
- 21 (1) Federal, State or local law.
- 22 (2) A collective bargaining agreement.
- 23 (3) An existing policy of the employee's employer.
- 24 Section 902. Expiration.
- 25 This act shall expire one year after the expiration or
- 26 termination of the COVID-19 disaster emergency.
- 27 Section 903. Effective date.
- This act shall take effect in 15 days.