
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 873 Session of
2021

INTRODUCED BY CAPPELLETTI, COLLETT, COMITTA, COSTA, MUTH,
FONTANA, SCHWANK, STREET, HUGHES, KEARNEY, KANE, BREWSTER,
L. WILLIAMS, SAVAL, SANTARSIERO, MARTIN, HAYWOOD AND
SABATINA, OCTOBER 22, 2021

REFERRED TO LABOR AND INDUSTRY, OCTOBER 22, 2021

AN ACT

1 Providing for paid leave time for a pregnancy loss or related
2 reason.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Pennsylvania
7 Support Through Loss Act.

8 Section 2. 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:

12 "Assisted reproductive technology procedure." The term shall
13 have the meaning given to "assisted reproductive technology" in
14 42 U.S.C. § 263a-7 (Public Law 102-493, 106 Stat. 3151), as
15 defined on the effective date of this definition.

16 "Department." The Department of Labor and Industry of the
17 Commonwealth.

1 "Domestic partner." With respect to an unmarried employee,
2 includes:

3 (1) the person recognized as the domestic partner of the
4 employee under a domestic partnership or civil union law of a
5 state or political subdivision of a state; and

6 (2) an unmarried, adult person who is in a committed,
7 personal relationship with the employee, who is not a
8 domestic partner as described in paragraph (1) to or in a
9 relationship with any other person and who is designated to
10 the employee's employer by the employee as that employee's
11 domestic partner.

12 "Employer." A person engaged in commerce or in an industry
13 or activity affecting commerce who employs five or more
14 employees for each working day during each calendar workweek or
15 more in the current or preceding year.

16 "Paid leave time." An increment of compensated leave that
17 can be granted to an employee for use during an absence from
18 employment for any reason described in this act.

19 "Secretary." The Secretary of Labor and Industry of the
20 Commonwealth.

21 "Unpaid leave time." Leave granted and used in the same
22 manner and under the same conditions as paid leave time for the
23 purposes of this act, except that no compensation shall be paid.

24 Section 3. Paid leave time.

25 (a) General rule.--An employer shall grant to each employee
26 employed by the employer 24 hours of paid leave time on the
27 employee's first workday of each calendar year. The employee
28 shall use the paid leave time as needed during that calendar
29 year for reasons described in subsection (d).

30 (b) No carryover.--Paid leave time granted under this

1 section shall not carry over from one year to the next.

2 (c) Paid leave policy.--An employer with a paid leave policy
3 who makes available an amount of paid leave that is sufficient
4 to meet the requirements of this section and that is made
5 available for all stated reasons and under all stated conditions
6 that are the same as the reasons and conditions under subsection
7 (d) shall not be required to grant an employee additional paid
8 leave time under this section.

9 (d) Reason for leave.--Paid leave time granted under this
10 section may be used by an employee for either of the following:

11 (1) An absence resulting from:

12 (i) a pregnancy loss;

13 (ii) an unsuccessful round of intrauterine
14 insemination or an unsuccessful round of an assisted
15 reproductive technology procedure;

16 (iii) a failed adoption match or an adoption that is
17 not finalized because it is contested by another party;

18 (iv) a failed surrogacy arrangement; or

19 (v) a diagnosis or event that impacts pregnancy or
20 fertility.

21 (2) An absence to care for a spouse or domestic partner
22 who experiences a circumstance described in paragraph (1).

23 Section 4. Prohibited acts.

24 It shall be unlawful for an employer to interfere with,
25 restrain or deny the exercise of or the attempt to exercise a
26 right provided under this act, including:

27 (1) discharging or discriminating against, including
28 retaliating against, an individual, including a job
29 applicant, for exercising or attempting to exercise a right
30 provided under this act;

1 (2) using the taking of paid leave time or unpaid leave
2 time under this act as a factor in an employment action, such
3 as hiring, promotion, reducing hours or number of shifts or a
4 disciplinary action; or

5 (3) counting the paid leave time or unpaid leave time
6 under a no-fault attendance policy or any other absence
7 control policy.

8 Section 5. Notice requirement.

9 (a) General rule.--An employer shall notify each employee
10 and include in an employee handbook the information described in
11 paragraphs (1), (2) and (3). Each employer shall post and keep
12 posted a notice, to be prepared or approved in accordance with
13 regulations prescribed under this act, stating excerpts from, or
14 summaries of, the pertinent provisions of this act, including:

15 (1) information describing paid leave time available to
16 employees under this act;

17 (2) information pertaining to the filing of an action
18 under this act; and

19 (3) information that describes:

20 (i) the protections that an employee has in
21 exercising rights under this act; and

22 (ii) how the employee can contact the Department of
23 Labor and Industry if any of the rights are violated.

24 (b) Location.--The notice described under subsection (a)
25 shall be posted:

26 (1) in conspicuous places on the premises of the
27 employer, where notices to employees, including applicants,
28 are customarily posted; or

29 (2) in an employee handbook.

30 (c) Penalty.--An employer who willfully violates this

1 section shall be subject to a civil fine in an amount not to
2 exceed \$100 for each separate violation.

3 Section 6. Civil action by employees or individuals.

4 (a) Right of action.--An action to recover the damages or
5 equitable relief prescribed may be maintained against an
6 employer in a court of competent jurisdiction by one or more
7 employees or individuals or a representative for, and on behalf
8 of:

9 (1) the employees or individuals; or

10 (2) the employees or individuals and others similarly
11 situated.

12 (b) Liability.--An employer who violates section 4 shall be
13 liable to an employee or individual affected:

14 (1) for damages equal to:

15 (i) the amount of:

16 (A) wages, salary, employment benefits or other
17 compensation denied or lost by reason of the
18 violation; or

19 (B) in a case where wages, salary, employment
20 benefits or other compensation have not been denied
21 or lost, any actual monetary losses sustained as a
22 direct result of the violation up to a sum equal to
23 24 hours of wages or salary for the employee or
24 individual;

25 (ii) the interest on the amount described in
26 subparagraph (i) calculated at the prevailing rate; and

27 (iii) an additional amount as liquidated damages;

28 and

29 (2) for equitable relief as may be appropriate,
30 including employment, reinstatement and promotion.

1 (c) Fees and costs.--The court, in an action under this
2 section, shall, in addition to any judgment awarded to the
3 plaintiff, allow reasonable attorney fees, reasonable expert
4 witness fees and other costs of the action to be paid by the
5 defendant.

6 Section 7. Administrative action.

7 (a) Duty of secretary.--The secretary shall receive,
8 investigate and attempt to resolve complaints of violations of
9 section 4, including a violation relating to the rights provided
10 under this act.

11 (b) Penalty.--The secretary may levy an administrative
12 penalty of up to \$5,000 per violation.

13 Section 8. Civil action by department.

14 The secretary may bring an action in a court of competent
15 jurisdiction to recover the damages described under this act.

16 The following apply:

17 (1) Money recovered by the secretary under section 6
18 shall be held in a special deposit account and shall be paid,
19 on order of the secretary, directly to each employee or
20 individual affected. The money not paid to an employee or
21 individual affected because of inability to do so within a
22 period of three years shall be deposited into the General
23 Fund.

24 (2) An action may be brought no later than two years
25 after the date of the last event constituting the alleged
26 violation for which the action is brought.

27 (3) In the case of an action brought for a willful
28 violation of section 4, the action may be brought within
29 three years of the date of the last event constituting the
30 alleged violation for which the action is brought.

1 (4) In determining when an action is commenced under
2 this section, an action shall be considered to be commenced
3 on the date when the complaint is filed.

4 Section 9. Regulations.

5 The department may promulgate rules and regulations to
6 administer and enforce this act.

7 Section 10. Effective date.

8 This act shall take effect in 60 days.