S T A T E O F N E W Y O R K

1601

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. ZEBROWSKI, BRADLEY, GREENE, O'DONNELL, CARROZZA, JAFFEE, PERALTA, ESPAILLAT, KELLNER, ROBINSON -- Multi-Sponsored by -- M. of A. BOYLAND, COOK, DIAZ, DINOWITZ, GOTTFRIED, JOHN, MAISEL, MILLMAN, PEOPLES, PHEFFER, SEMINERIO, TITONE, WEISENBERG -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to allowing employees to use paid vacation or paid sick or personal leave to care for family members

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The labor law is amended by adding a new section 202-l to read as follows:

S 202-L. FAMILY CARE LEAVE OF ABSENCE. 1. EVERY EMPLOYER THAT PROVIDES PAID SICK OR PERSONAL LEAVE OR PAID VACATION TIME TO ITS EMPLOYEES SHALL ALLOW SUCH EMPLOYEES TO UTILIZE THEIR ACCRUED SICK, PERSONAL AND VACATION TIME FOR THE PURPOSE OF CARING FOR A FAMILY MEMBER.

2. AN EMPLOYER SHALL NOT RETALIATE AGAINST AN EMPLOYEE FOR REQUESTING OR OBTAINING A LEAVE OF ABSENCE AS PROVIDED BY THIS SECTION.

3. THE PROVISIONS OF THIS SECTION SHALL NOT PREVENT AN EMPLOYER FROM PROVIDING LEAVE FOR THE PURPOSE OF CARING FOR A FAMILY MEMBER WITH A SERIOUS HEALTH CONDITION IN ADDITION TO LEAVE ALLOWED UNDER ANY OTHER PROVISION OF LAW. THE PROVISIONS OF THIS SECTION SHALL NOT AFFECT AN EMPLOYEE'S RIGHTS WITH RESPECT TO ANY OTHER EMPLOYEE BENEFIT OTHERWISE PROVIDED BY LAW.

4. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CARING FOR A FAMILY MEMBER" MEANS: (I) PARTICIPATING IN PROVIDING CARE, INCLUDING PHYSICAL OR PSYCHOLOGICAL CARE, FOR A FAMILY MEMBER OF THE EMPLOYEE MADE NECESSARY BY A SERIOUS HEALTH CONDITION OF THE FAMILY MEMBER; OR (II) BONDING WITH HIS OR HER CHILD DURING THE FIRST TWELVE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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MONTHS AFTER THE CHILD'S BIRTH, OR THE FIRST TWELVE MONTHS AFTER THE PLACEMENT OF THE CHILD FOR ADOPTION OR FOSTER CARE WITH THE EMPLOYEE;

(B) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS, INJURY, IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT: (I) REQUIRES INPATIENT CARE IN A HOSPITAL, HOSPICE OR RESIDENTIAL HEALTH CARE FACILITY; OR (II) REQUIRES CONTINUING TREATMENT BY A HEALTH CARE PROVIDER;

(C) "FAMILY MEMBER" MEANS A CHILD, SPOUSE, DOMESTIC PARTNER AS DEFINED IN SECTION FOUR OF THE WORKERS' COMPENSATION LAW, PARENT, GRANDCHILD, MOTHER-IN-LAW OR FATHER-IN-LAW;

(D) "CHILD" MEANS A BIOLOGICAL, ADOPTED, OR FOSTER CHILD, A STEPCHILD, A LEGAL WARD, OR A CHILD OF A PERSON STANDING IN LOCO PARENTIS, WHO IS: (I) UNDER EIGHTEEN YEARS OF AGE; OR (II) EIGHTEEN YEARS OF AGE OR OLDER AND INCAPABLE OF SELF-CARE BECAUSE OF A MENTAL OR PHYSICAL DISABILITY;

(E) "PARENT" MEANS THE BIOLOGICAL, ADOPTIVE, OR FOSTER PARENT OF AN EMPLOYEE OR INDIVIDUAL WHO STOOD IN LOCO PARENTIS TO AN EMPLOYEE WHEN THE EMPLOYEE WAS A SON OR DAUGHTER;

(F) PERSONS WHO ARE "IN LOCO PARENTIS" INCLUDE THOSE WITH DAY-TO-DAY RESPONSIBILITIES TO CARE FOR AND FINANCIALLY SUPPORT A CHILD OR, IN THE CASE OF AN EMPLOYEE, WHO HAD SUCH RESPONSIBILITY FOR THE EMPLOYEE WHEN THE EMPLOYEE WAS A CHILD. A BIOLOGICAL OR LEGAL RELATIONSHIP IS NOT NECESSARY;

(G) "GRANDCHILD" MEANS THE CHILD OF A CHILD; AND

(H) "HEALTH CARE PROVIDER" MEANS ANY PROVIDER TREATING A FAMILY MEMBER'S SERIOUS HEALTH CONDITION, INCLUDING A PHYSICIAN, PODIATRIST, CHIROPRACTOR, DENTIST, PSYCHOLOGIST, CERTIFIED NURSE MIDWIFE, OR IN THE CASE OF A FAMILY MEMBER WHO ADHERES TO THE FAITH OR TEACHINGS OF ANY CHURCH OR DENOMINATION, AND WHO IN ACCORDANCE WITH ITS CREED, TENETS OR PRINCIPLES DEPENDS FOR HEALING UPON PRAYER THROUGH SPIRITUAL MEANS ALONE IN THE PRACTICE OF RELIGION, BY AN ACCREDITED PRACTITIONER, CONTAINING FACTS AND OPINIONS AS TO SUCH HEALTH CONDITION IN COMPLIANCE WITH REGULATIONS OF THE CHAIR.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of this act and any administrative steps necessary to effectuate the purposes of this act on its effective date are authorized and directed to be made and completed on or before such effective date.