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

1368

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. JEFFRIES, LAVINE, ZEBROWSKI, COLTON, MILLMAN, ENGLEBRIGHT, GALEF, ORTIZ, MAYERSOHN, MAISEL, HOYT, GUNTHER, PHEFFER, PERRY -- Multi-Sponsored by -- M. of A. BING, BOYLAND, BRENNAN, CAHILL, CLARK, CONTE, FARRELL, GLICK, MARKEY, McDONOUGH, McENENY, REILLY, SWEENEY, WEISENBERG -- read once and referred to the Committee on Labor

AN ACT to amend the labor law and the insurance law, in relation to a leave of absence for employees during testing for, donation of and recovery from organ donation and providing insurance coverage to employers who give a paid leave of absence

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 171 to read as follows:

S 171. MANDATORY LEAVE OF ABSENCE FOR BONE MARROW OR ORGAN DONATION. 1. FOR PURPOSES OF THIS SECTION:

A. THE TERM "BONE MARROW DONOR" SHALL MEAN, A PERSON FROM WHOSE BODY BONE MARROW IS TAKEN TO BE TRANSFERRED TO THE BODY OF ANOTHER PERSON.

B. THE TERM "ORGAN" SHALL MEAN A HUMAN ORGAN THAT IS CAPABLE OF BEING TRANSFERRED FROM THE BODY OF A PERSON TO THE BODY OF ANOTHER PERSON.

C. THE TERM "ORGAN DONOR" SHALL MEAN A PERSON FROM WHOSE BODY AN ORGAN IS TAKEN TO BE TRANSFERRED TO THE BODY OF ANOTHER PERSON.

D. THE TERM "PRIVATE EMPLOYER" SHALL MEAN A SOLE PROPRIETOR, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER ENTITY WITH TWENTY OR MORE EMPLOYEES.

2. IN ADDITION TO ANY MEDICAL, PERSONAL, OR OTHER PAID LEAVE PROVIDED BY A PRIVATE EMPLOYER, THE PRIVATE EMPLOYER SHALL GRANT AN EMPLOYEE AN UNPAID LEAVE OF ABSENCE TO ALLOW THE EMPLOYEE TO SERVE AS AN ORGAN DONOR OR A BONE MARROW DONOR IF THE EMPLOYEE REQUESTS A LEAVE OF ABSENCE FOR SUCH PURPOSE. THE LEAVE OF ABSENCE REQUESTED BY THE EMPLOYEE SHALL NOT

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

LBD04660-01-1

EXCEED THIRTY DAYS. THE EMPLOYER MAY REQUIRE VERIFICATION BY A PHYSICIAN FOR THE PURPOSE AND LENGTH OF EACH LEAVE REQUESTED BY THE EMPLOYEE TO DONATE BONE MARROW OR SERVE AS AN ORGAN DONOR.

3. AN EMPLOYER SHALL NOT RETALIATE AGAINST AN EMPLOYEE FOR REQUESTING OR OBTAINING A LEAVE OF ABSENCE AS PROVIDED BY THIS SECTION FOR THE PURPOSE OF UNDERGOING A MEDICAL PROCEDURE TO DONATE BONE MARROW OR SERVE AS AN ORGAN DONOR.

S 2. Subsection (c) of section 3216 of the insurance law is amended by adding a new paragraph 15 to read as follows:

(15) IT CONTAINS PROVISIONS WHICH PROVIDE THAT THE INSURER OF THE ORGAN OR BONE MARROW RECIPIENT SHALL PROVIDE COVERAGE WHICH REIMBURSES THE DONOR'S PRIVATE EMPLOYER FOR WAGES OR SALARY PAID BY THE PRIVATE EMPLOYER TO THE DONOR WHILE HE OR SHE WAS ON A PAID LEAVE OF ABSENCE TO SERVE AS AN ORGAN OR BONE MARROW DONOR AS DESCRIBED IN SECTION ONE HUNDRED SEVENTY-ONE OF THE LABOR LAW.

S 3. Subsection (a) of section 3221 of the insurance law is amended by adding a new paragraph 17 to read as follows:

(17) IT CONTAINS PROVISIONS WHICH PROVIDE THAT THE INSURER OF THE ORGAN OR BONE MARROW RECIPIENT SHALL PROVIDE COVERAGE WHICH REIMBURSES THE DONOR'S PRIVATE EMPLOYER FOR WAGES OR SALARY PAID BY THE PRIVATE EMPLOYER TO THE DONOR WHILE HE OR SHE WAS ON A PAID LEAVE OF ABSENCE TO SERVE AS AN ORGAN OR BONE MARROW DONOR AS DESCRIBED IN SECTION ONE HUNDRED SEVENTY-ONE OF THE LABOR LAW.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.