

2947

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. GLICK, PHEFFER, CAHILL -- Multi-Sponsored by --
M. of A. AUBRY, COLTON, DINOWITZ, GOTTFRIED, HOOPER, HOYT, LIFTON,
McENENY, MILLMAN, ORTIZ, WEINSTEIN, WEISENBERG -- read once and
referred to the Committee on Labor

AN ACT to amend the labor law, in relation to allowing employees to
utilize sick leave to care for family, household members and domestic
partners

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

1 Section 1. The labor law is amended by adding a new section 19 to
2 read as follows:
3 S 19. SICK LEAVE; DOMESTIC PARTNERS. 1. AS USED IN THIS SECTION:
4 "DOMESTIC PARTNER" MEANS A PERSON WHO, WITH RESPECT TO ANOTHER PERSON:
5 (A) IS FORMALLY A PARTY IN A DOMESTIC PARTNERSHIP OR SIMILAR RELATION-
6 SHIP WITH THE OTHER PERSON, ENTERED INTO PURSUANT TO THE LAWS OF THE
7 UNITED STATES OR OF ANY STATE, LOCAL OR FOREIGN JURISDICTION, OR REGIS-
8 TERED AS THE DOMESTIC PARTNER OF THE OTHER PERSON WITH ANY REGISTRY
9 MAINTAINED BY THE EMPLOYER OF EITHER PARTY OR ANY STATE, MUNICIPALITY,
10 OR FOREIGN JURISDICTION; OR
11 (B) IS DEPENDENT OR MUTUALLY INTERDEPENDENT ON THE OTHER PERSON FOR
12 SUPPORT, AS EVIDENCED BY THE TOTALITY OF THE CIRCUMSTANCES INDICATING A
13 MUTUAL INTENT TO BE DOMESTIC PARTNERS INCLUDING BUT NOT LIMITED TO:
14 COMMON OWNERSHIP OR JOINT LEASING OF REAL OR PERSONAL PROPERTY; COMMON
15 HOUSEHOLDING, SHARED INCOME OR SHARED EXPENSES; CHILDREN IN COMMON;
16 SHARED HEALTH OR EMPLOYMENT BENEFIT COVERAGE; SIGNS OF INTENT TO MARRY
17 OR BECOME DOMESTIC PARTNERS UNDER PARAGRAPH (A) OF THIS SUBDIVISION; OR
18 THE LENGTH OF THE PERSONAL RELATIONSHIP OF THE PERSONS.
19 2. "DOMESTIC PARTNER" SHALL NOT INCLUDE ANY PERSON WHO IS RELATED BY
20 BLOOD TO SUCH OTHER PERSON IN A MANNER THAT WOULD BAR MARRIAGE TO SUCH
21 OTHER PERSON IN NEW YORK STATE. "DOMESTIC PARTNER" ALSO SHALL NOT
22 INCLUDE ANY PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE.

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

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1 3. SICK LEAVE DOES NOT INCLUDE ANY BENEFIT PROVIDED UNDER AN EMPLOYEE
2 WELFARE BENEFIT PLAN SUBJECT TO THE FEDERAL EMPLOYEE RETIREMENT INCOME
3 SECURITY ACT OF 1974 AND DOES NOT INCLUDE ANY INSURANCE BENEFIT, WORK-
4 ERS' COMPENSATION BENEFIT, UNEMPLOYMENT COMPENSATION DISABILITY BENEFIT,
5 OR BENEFIT NOT PAYABLE FROM THE EMPLOYER.

6 4. "EMPLOYER" MEANS A STATE AGENCY, AN OFFICE OR DEPARTMENT, A UNIT OF
7 LOCAL GOVERNMENT, A SCHOOL DISTRICT, AN INDIVIDUAL, A PARTNERSHIP, AN
8 ASSOCIATION, A CORPORATION OR A NONPROFIT ORGANIZATION, WHICH EMPLOYS
9 FIFTY OR MORE EMPLOYEES IN THE STATE OF NEW YORK.

10 5. ANY EMPLOYEE WHO HAS BEEN GRANTED A LEAVE OF ABSENCE PURSUANT TO
11 THE PROVISIONS OF THE FEDERAL FAMILY AND MEDICAL LEAVE ACT SHALL BE
12 ENTITLED TO UTILIZE ANY OF SUCH EMPLOYEE'S ACCRUED AND AVAILABLE SICK
13 LEAVE FOR SUCH LEAVE. SUCH LEAVE MAY BE TAKEN IN EITHER FULL DAY OR
14 PARTIAL DAY INCREMENTS.

15 6. ANY EMPLOYEE WORKING FOR AN EMPLOYER WITH FIFTY OR MORE EMPLOYEES,
16 WHICH PROVIDES SICK LEAVE FOR ITS EMPLOYEES, SHALL BE ENTITLED TO
17 UTILIZE SUCH EMPLOYEE'S ACCRUED AND AVAILABLE SICK LEAVE TO PROVIDE CARE
18 TO IMMEDIATE FAMILY, HOUSEHOLD MEMBERS OR DOMESTIC PARTNERS IN THOSE
19 MEDICAL SITUATIONS NOT COVERED BY THE FEDERAL FAMILY AND MEDICAL LEAVE
20 ACT. SUCH LEAVE MAY BE TAKEN IN EITHER FULL DAY OR PARTIAL DAY INCRE-
21 MENTS.

22 7. EXCEPT AS OTHERWISE PROVIDED PURSUANT TO A VALID COLLECTIVE
23 BARGAINING AGREEMENT, AN EMPLOYER WHO PROVIDES SICK LEAVE FOR EMPLOYEES
24 SHALL PERMIT AN EMPLOYEE TO USE IN ANY CALENDAR YEAR, SUCH EMPLOYEE'S
25 ACCRUED AND AVAILABLE SICK LEAVE PURSUANT TO THIS SECTION.

26 S 2. Nothing in this act shall be construed to impede, infringe or
27 diminish the rights and benefits which accrue to employees through bona
28 fide collective bargaining agreements, or otherwise diminish the integ-
29 rity of existing collective bargaining agreements and other past prac-
30 tices.

31 S 3. This act shall take effect on the one hundred twentieth day after
32 it shall have become a law; provided however, the provisions of this act
33 shall not supersede any collective bargaining agreement, during its
34 term, in existence on the effective date of this act.