

2851--A

2015-2016 Regular Sessions

I N A S S E M B L Y

January 20, 2015

Introduced by M. of A. SIMOTAS, ROSENTHAL, MONTESANO, TITUS, DINOWITZ, AUBRY, WEPRIN, WRIGHT, ROZIC -- Multi-Sponsored by -- M. of A. GLICK, GOTTFRIED, RA, TITONE -- read once and referred to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, the civil service law and the insurance law, in relation to establishing the New York family leave act

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York family leave act".
3 S 2. The labor law is amended by adding a new section 202-n to read as
4 follows:
5 S 202-N. LEAVE OF ABSENCE UPON THE BIRTH OR ADOPTION OF A CHILD GRANT-
6 ED TO EMPLOYEES. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING
7 TERMS SHALL HAVE THE FOLLOWING MEANINGS:
8 (A) "COMMENCEMENT OF THE PARENT-CHILD RELATIONSHIP" SHALL MEAN:
9 (I) WHEN THE ADOPTION OCCURS UNDER SPONSORSHIP OF AN AUTHORIZED AGEN-
10 CY, AS DEFINED IN SUBDIVISION TEN OF SECTION THREE HUNDRED SEVENTY-ONE
11 OF THE SOCIAL SERVICES LAW, THE DATE THE CHILD IS PLACED BY THE AUTHOR-
12 IZED AGENCY IN THE HOME OF THE ADOPTIVE PARENTS PURSUANT TO SECTION
13 THREE HUNDRED EIGHTY-FOUR OF THE SOCIAL SERVICES LAW.
14 (II) WHEN THE ADOPTION OCCURS WITHOUT THE SPONSORSHIP OF AN AUTHORIZED
15 AGENCY, THE DATE A PETITION FOR THE ADOPTION OF A CHILD RESIDING WITH
16 THE ADOPTIVE PARENTS IS FILED IN A COURT.
17 (B) "EMPLOYEE" MEANS A PERSON WHO PERFORMS SERVICES FOR HIRE FOR AN
18 EMPLOYER, FOR AN AVERAGE OF TWENTY OR MORE HOURS PER WEEK, AND INCLUDES
19 ALL INDIVIDUALS EMPLOYED AT ANY SITE OWNED OR OPERATED BY AN EMPLOYER
20 BUT SHALL NOT INCLUDE AN INDEPENDENT CONTRACTOR.

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

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(C) "EMPLOYER" MEANS A PERSON OR ENTITY THAT EMPLOYS FIFTY OR MORE EMPLOYEES AT AT LEAST ONE SITE AND INCLUDES AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, NONPROFIT ORGANIZATION, GROUP OF PERSONS, STATE, COUNTY, TOWN, CITY, SCHOOL DISTRICT, PUBLIC AUTHORITY OR OTHER GOVERNMENTAL SUBDIVISION OF ANY KIND.

2. (A) AN EMPLOYER SHALL PERMIT ANY EMPLOYEE, MALE OR FEMALE, TO TAKE A LEAVE OF ABSENCE FROM EMPLOYMENT WITHOUT LOSS OF PAY OR DIMINUTION OF ANY OTHER PRIVILEGE, BENEFIT OR RIGHT ARISING OUT OF SUCH EMPLOYMENT, FOR UP TO TWELVE WEEKS UPON THE BIRTH OF SUCH EMPLOYEE'S CHILD. AN ADOPTIVE PARENT, FOLLOWING THE COMMENCEMENT OF THE PARENT-CHILD RELATIONSHIP, SHALL BE ENTITLED TO THE SAME LEAVE AND UPON THE SAME TERMS.

(B) IN ADDITION TO THE LEAVE OF ABSENCE GRANTED IN PARAGRAPH (A) OF THIS SUBDIVISION, AN EMPLOYER SHALL PERMIT ANY EMPLOYEE, MALE OR FEMALE, TO TAKE AN ADDITIONAL TWELVE WEEKS LEAVE OF ABSENCE FROM EMPLOYMENT WITHOUT PAY OR ANY OTHER PRIVILEGE, BENEFIT OR RIGHT ARISING OUT OF SUCH EMPLOYMENT, BUT WITHOUT DEMOTION. AN ADOPTIVE PARENT, FOLLOWING THE COMMENCEMENT OF THE PARENT-CHILD RELATIONSHIP, SHALL BE ENTITLED TO THE SAME ADDITIONAL LEAVE AND UPON THE SAME TERMS.

3. AN EMPLOYER SHALL NOT RETALIATE AGAINST AN EMPLOYEE FOR REQUESTING OR OBTAINING A LEAVE OF ABSENCE UNDER THIS SECTION.

4. THIS SECTION SHALL NOT PREVENT AN EMPLOYER FROM PROVIDING LEAVE UPON THE BIRTH OR ADOPTION OF A CHILD IN ADDITION TO LEAVE ALLOWED UNDER ANY OTHER PROVISION OF LAW. THIS SECTION SHALL NOT AFFECT AN EMPLOYEE'S RIGHTS WITH RESPECT TO ANY OTHER EMPLOYEE BENEFIT OTHERWISE PROVIDED BY LAW.

5. THE COMMISSIONER IS HEREBY AUTHORIZED AND DIRECTED TO ESTABLISH ANY NECESSARY GUIDELINES, INCLUDING REQUIREMENTS FOR NOTICE, REQUEST AND APPROVAL OF LEAVE, AND DOCUMENTATION, FOR THE TIMELY IMPLEMENTATION OF THE PROGRAM.

S 3. The civil service law is amended by adding a new section 159-d to read as follows:

S 159-D. EXCUSED LEAVE FOR THE BIRTH OR ADOPTION OF A CHILD. 1. A. EVERY PUBLIC OFFICER, EMPLOYEE OF THIS STATE, EMPLOYEE OF ANY COUNTY, EMPLOYEE OF ANY COMMUNITY COLLEGE, EMPLOYEE OF ANY PUBLIC AUTHORITY, EMPLOYEE OF ANY PUBLIC BENEFIT CORPORATION, EMPLOYEE OF ANY BOARD OF COOPERATIVE EDUCATIONAL SERVICES (BOCES), EMPLOYEE OF ANY VOCATIONAL EDUCATION AND EXTENSION BOARD, OR A SCHOOL DISTRICT ENUMERATED IN SECTION ONE OF CHAPTER FIVE HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED SIXTY-SEVEN, EMPLOYEE OF ANY MUNICIPALITY, EMPLOYEE OF ANY SCHOOL DISTRICT OR ANY EMPLOYEE OF A PARTICIPATING EMPLOYER IN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR ANY EMPLOYEE OF A PARTICIPATING EMPLOYER IN THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM SHALL BE ENTITLED TO HAVE A PAID LEAVE OF ABSENCE FROM HIS OR HER DUTIES OR SERVICE AS SUCH PUBLIC OFFICER, EMPLOYEE OF THIS STATE, EMPLOYEE OF ANY COUNTY, EMPLOYEE OF ANY COMMUNITY COLLEGE, EMPLOYEE OF ANY PUBLIC AUTHORITY, EMPLOYEE OF ANY PUBLIC BENEFIT CORPORATION, EMPLOYEE OF ANY BOARD OF COOPERATIVE EDUCATIONAL SERVICES (BOCES), EMPLOYEE OF ANY VOCATIONAL EDUCATION AND EXTENSION BOARD, OR A SCHOOL DISTRICT ENUMERATED IN SECTION ONE OF CHAPTER FIVE HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED SIXTY-SEVEN, EMPLOYEE OF ANY MUNICIPALITY, EMPLOYEE OF ANY SCHOOL DISTRICT, OR ANY EMPLOYEE OF A PARTICIPATING EMPLOYER IN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR ANY EMPLOYEE OF A PARTICIPATING EMPLOYER IN THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM FOR A SUFFICIENT PERIOD OF TIME, NOT TO EXCEED TWELVE WEEKS UPON THE BIRTH OF SUCH EMPLOYEE'S CHILD, AN ADOPTIVE PARENT, FOLLOWING THE

1 COMMENCEMENT OF THE PARENT-CHILD RELATIONSHIP, SHALL BE ENTITLED TO THE
2 SAME LEAVE AND UPON THE SAME TERMS.

3 B. IN ADDITION TO THE LEAVE OF ABSENCE GRANTED IN PARAGRAPH A OF THIS
4 SUBDIVISION, EVERY PUBLIC OFFICER, EMPLOYEE OF THIS STATE, EMPLOYEE OF
5 ANY COUNTY, EMPLOYEE OF ANY COMMUNITY COLLEGE, EMPLOYEE OF ANY PUBLIC
6 AUTHORITY, EMPLOYEE OF ANY PUBLIC BENEFIT CORPORATION, EMPLOYEE OF ANY
7 BOARD OF COOPERATIVE EDUCATIONAL SERVICES (BOCES), EMPLOYEE OF ANY VOCA-
8 TIONAL EDUCATION AND EXTENSION BOARD, OR A SCHOOL DISTRICT ENUMERATED IN
9 SECTION ONE OF CHAPTER FIVE HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN
10 HUNDRED SIXTY-SEVEN, EMPLOYEE OF ANY MUNICIPALITY, EMPLOYEE OF ANY
11 SCHOOL DISTRICT OR ANY EMPLOYEE OF A PARTICIPATING EMPLOYER IN THE NEW
12 YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR ANY EMPLOYEE OF A
13 PARTICIPATING EMPLOYER IN THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM
14 SHALL BE ENTITLED TO HAVE A PERIOD OF UNPAID LEAVE OF ABSENCE FROM HIS
15 OR HER DUTIES OR SERVICE AS SUCH PUBLIC OFFICER, EMPLOYEE OF THIS STATE,
16 EMPLOYEE OF ANY COUNTY, EMPLOYEE OF ANY COMMUNITY COLLEGE, EMPLOYEE OF
17 ANY PUBLIC AUTHORITY, EMPLOYEE OF ANY PUBLIC BENEFIT CORPORATION,
18 EMPLOYEE OF ANY BOARD OF COOPERATIVE EDUCATIONAL SERVICES (BOCES),
19 EMPLOYEE OF ANY VOCATIONAL EDUCATION AND EXTENSION BOARD, OR A SCHOOL
20 DISTRICT ENUMERATED IN SECTION ONE OF CHAPTER FIVE HUNDRED SIXTY-SIX OF
21 THE LAWS OF NINETEEN HUNDRED SIXTY-SEVEN, EMPLOYEE OF ANY MUNICIPALITY,
22 EMPLOYEE OF ANY SCHOOL DISTRICT, OR ANY EMPLOYEE OF A PARTICIPATING
23 EMPLOYER IN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR
24 ANY EMPLOYEE OF A PARTICIPATING EMPLOYER IN THE NEW YORK STATE TEACHERS'
25 RETIREMENT SYSTEM FOR A SUFFICIENT PERIOD OF TIME, NOT TO EXCEED AN
26 ADDITIONAL TWELVE WEEKS UPON THE BIRTH OF SUCH EMPLOYEE'S CHILD, AN
27 ADOPTIVE PARENT, FOLLOWING THE COMMENCEMENT OF THE PARENT-CHILD
28 RELATIONSHIP, SHALL BE ENTITLED TO THE SAME LEAVE AND UPON THE SAME
29 TERMS.

30 2. THE ENTIRE PERIOD OF THE LEAVE OF ABSENCE GRANTED PURSUANT TO THIS
31 SECTION SHALL BE EXCUSED LEAVE AND SHALL NOT BE CHARGED AGAINST ANY
32 OTHER LEAVE SUCH PUBLIC OFFICER, EMPLOYEE OF THIS STATE, EMPLOYEE OF ANY
33 COUNTY, EMPLOYEE OF ANY COMMUNITY COLLEGE, EMPLOYEE OF ANY PUBLIC
34 AUTHORITY, EMPLOYEE OF ANY PUBLIC BENEFIT CORPORATION, EMPLOYEE OF ANY
35 BOARD OF COOPERATIVE EDUCATIONAL SERVICES (BOCES), EMPLOYEE OF ANY VOCA-
36 TIONAL EDUCATION AND EXTENSION BOARD, OR A SCHOOL DISTRICT ENUMERATED IN
37 SECTION ONE OF CHAPTER FIVE HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN
38 HUNDRED SIXTY-SEVEN, EMPLOYEE OF ANY MUNICIPALITY, EMPLOYEE OF ANY
39 SCHOOL DISTRICT OR ANY EMPLOYEE OF A PARTICIPATING EMPLOYER IN THE NEW
40 YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR ANY EMPLOYEE OF A
41 PARTICIPATING EMPLOYER IN THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM
42 IS OTHERWISE ENTITLED TO.

43 3. FOR THE PURPOSES OF THIS SECTION, THE TERM "COMMENCEMENT OF THE
44 PARENT-CHILD RELATIONSHIP" SHALL MEAN:

45 A. WHEN THE ADOPTION OCCURS UNDER SPONSORSHIP OF AN AUTHORIZED AGENCY,
46 AS DEFINED IN SUBDIVISION TEN OF SECTION THREE HUNDRED SEVENTY-ONE OF
47 THE SOCIAL SERVICES LAW, THE DATE THE CHILD IS PLACED BY THE AUTHORIZED
48 AGENCY IN THE HOME OF THE ADOPTIVE PARENTS PURSUANT TO SECTION THREE
49 HUNDRED EIGHTY-FOUR OF THE SOCIAL SERVICES LAW.

50 B. WHEN THE ADOPTION OCCURS WITHOUT THE SPONSORSHIP OF AN AUTHORIZED
51 AGENCY, THE DATE A PETITION FOR THE ADOPTION OF A CHILD RESIDING WITH
52 THE ADOPTIVE PARENTS IS FILED IN A COURT.

53 S 4. Subsection (a) of section 3221 of the insurance law is amended
54 by adding a new paragraph 17 to read as follows:

55 (17) THAT A GROUP OR BLANKET POLICY ISSUED PURSUANT TO THIS ARTICLE
56 SHALL CONTAIN A PROVISION TO THE EFFECT THAT ANY MEMBER OF THE GROUP WHO

1 TAKES A LEAVE OF ABSENCE AS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION
2 TWO OF SECTION TWO HUNDRED TWO-N OF THE LABOR LAW OR PARAGRAPH B OF
3 SUBDIVISION ONE OF SECTION ONE HUNDRED FIFTY-NINE-D OF THE CIVIL SERVICE
4 LAW MAY CONTINUE TO MAINTAIN SUCH POLICY UPON THE PAYMENT OF APPROPRIATE
5 PREMIUMS UNTIL SUCH MEMBER RESUMES EMPLOYMENT WITH HIS OR HER EMPLOYER.

6 S 5. Section 4305 of the insurance law is amended by adding a new
7 subsection (i) to read as follows:

8 (I) A GROUP CONTRACT ISSUED PURSUANT TO THIS SECTION SHALL CONTAIN A
9 PROVISION TO THE EFFECT THAT IN CASE OF ANY MEMBER OF THE GROUP WHO
10 TAKES A LEAVE OF ABSENCE AS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION
11 TWO OF SECTION TWO HUNDRED TWO-N OF THE LABOR LAW OR PARAGRAPH B OF
12 SUBDIVISION ONE OF SECTION ONE HUNDRED FIFTY-NINE-D OF THE CIVIL SERVICE
13 LAW, SHALL BE ENTITLED TO MAINTAIN, WITHOUT EVIDENCE OF INSURABILITY,
14 UPON APPLICATION THEREFOR AND PAYMENT OF THE FIRST PREMIUM MADE TO THE
15 CORPORATION WITHIN AN APPROPRIATE TIME AFTER TAKING SUCH LEAVE OF
16 ABSENCE, A CONTINUATION OF SUCH CONTRACT, COVERING SUCH MEMBER AND HIS
17 OR HER ELIGIBLE DEPENDENTS WHO WERE COVERED BY THE GROUP CONTRACT UNTIL
18 SUCH MEMBER RESUMES EMPLOYMENT WITH HIS OR HER EMPLOYER.

19 S 6. This act shall take effect on the one hundred twentieth day
20 after it shall have become a law. Effective immediately, the addition,
21 amendment and/or repeal of any rule or regulation necessary for the
22 implementation of this act on its effective date is authorized to be
23 made on or before such date.