
By: **Delegates Barve and Doory (Montgomery County Administration) and Delegates R. Baker, Barkley, Billings, Bobo, Branch, Bronrott, Clagett, Dobson, Frush, Gladden, Goldwater, Grosfeld, Hammen, Harrison, Hubbard, Kirk, Mandel, McHale, McIntosh, Moe, Oaks, Pendergrass, Sher, and Shriver**

Introduced and read first time: February 8, 2002

Assigned to: Economic Matters

A BILL ENTITLED

AN ACT concerning

Maryland Family and Medical Leave Act

FOR the purpose of establishing the Maryland Family and Medical Leave Act; providing certain employees a total of 12 workweeks of family leave in a 12-month period under certain circumstances; providing that the family leave granted by an employer may be unpaid leave; providing that certain paid leave may be substituted for any part of the 12 workweeks of leave under certain circumstances; authorizing an employer to require an eligible employee to provide written notice of the eligible employee's intention to take family leave under certain circumstances; authorizing an employer to require that certain requests for family leave be supported by a certain certification issued by a certain health care provider; requiring that an eligible employee returning to work after taking leave be restored to the position of employment held by the employee when the leave began under certain circumstances; requiring an employer to maintain certain health coverage for the duration of the eligible employee's leave under certain circumstances; requiring an employer to keep certain records; requiring an employer to keep posted conspicuously in each place of employment a certain notice; requiring the Secretary of Labor, Licensing, and Regulation to adopt certain regulations; authorizing an employee to bring an action against an employer for certain damages under certain circumstances; prohibiting certain acts; providing for certain penalties; defining certain terms; providing for the purposes of this Act; providing for a delayed effective date; and generally relating to family and medical leave.

BY adding to

Article - Labor and Employment

Section 12-101 through 12-117, inclusive, to be under the new title "Title 12.

The Maryland Family and Medical Leave Act"

Annotated Code of Maryland

(1999 Replacement Volume and 2001 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Labor and Employment

TITLE 12. THE MARYLAND FAMILY AND MEDICAL LEAVE ACT.

12-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(C) (1) "ELIGIBLE EMPLOYEE" MEANS AN INDIVIDUAL WHO HAS REQUESTED THAT AN EMPLOYER PROVIDE FAMILY LEAVE AND WHO, AS OF THE DATE THAT THE REQUESTED FAMILY LEAVE BEGINS, WILL HAVE BEEN EMPLOYED BY THAT EMPLOYER FOR AT LEAST:

(I) A 12-MONTH PERIOD; AND

(II) 1,250 HOURS DURING THE PREVIOUS 12 MONTHS.

(2) "ELIGIBLE EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL WHO IS EMPLOYED AT A WORKSITE AT WHICH THE EMPLOYER EMPLOYS LESS THAN 25 EMPLOYEES IF THE TOTAL NUMBER OF EMPLOYEES EMPLOYED BY THAT EMPLOYER WITHIN 75 MILES OF THE WORKSITE IS ALSO LESS THAN 25.

(D) (1) "EMPLOYER" MEANS A PERSON WHO EMPLOYS AT LEAST 25 BUT NOT MORE THAN 49 INDIVIDUALS IN THE STATE FOR EACH WORKING DAY DURING EACH OF 20 OR MORE CALENDAR WORKWEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.

(2) "EMPLOYER" INCLUDES:

(I) A PERSON WHO ACTS, DIRECTLY OR INDIRECTLY, IN THE INTEREST OF AN EMPLOYER WITH RESPECT TO AN EMPLOYEE OF THE EMPLOYER;
AND

(II) A SUCCESSOR IN INTEREST OF AN EMPLOYER.

(3) "EMPLOYER" DOES NOT INCLUDE A GOVERNMENTAL UNIT COVERED BY THE FEDERAL ACT.

(E) (1) "EMPLOYMENT BENEFITS" MEANS BENEFITS PROVIDED OR MADE AVAILABLE TO AN EMPLOYEE BY AN EMPLOYER.

(2) "EMPLOYMENT BENEFITS" INCLUDES GROUP LIFE INSURANCE, HEALTH INSURANCE, DISABILITY INSURANCE, SICK LEAVE, ANNUAL LEAVE, EDUCATIONAL BENEFITS, AND PENSIONS.

(F) "FAMILY LEAVE" MEANS LEAVE DESCRIBED IN § 12-103 OF THIS TITLE.

(G) (1) "FEDERAL ACT" MEANS THE FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993, AS AMENDED.

(2) "FEDERAL ACT" INCLUDES REGULATIONS ADOPTED BY THE U.S. DEPARTMENT OF LABOR TO IMPLEMENT THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(H) "HEALTH CARE PROVIDER" MEANS:

(1) A PHYSICIAN, INCLUDING A DOCTOR OF OSTEOPATHY, WHO IS LICENSED TO PRACTICE MEDICINE IN THE STATE; OR

(2) A PERSON THAT THE SECRETARY DETERMINES BY REGULATION TO BE CAPABLE OF PROVIDING HEALTH CARE SERVICES.

(I) "REDUCED LEAVE SCHEDULE" MEANS A LEAVE SCHEDULE THAT REDUCES THE USUAL NUMBER OF HOURS PER WORKWEEK, OR HOURS PER WORKDAY, OF AN EMPLOYEE.

(J) "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND REGULATION.

(K) "SERIOUS HEALTH CONDITION" MEANS AN ILLNESS, INJURY, IMPAIRMENT, OR PHYSICAL OR MENTAL CONDITION THAT INVOLVES:

(1) INPATIENT CARE IN A HOSPITAL, HOSPICE, OR RESIDENTIAL MEDICAL CARE FACILITY; OR

(2) CONTINUING TREATMENT BY A HEALTH CARE PROVIDER.

12-102.

THE PURPOSE OF THIS TITLE IS TO ESTABLISH THE MARYLAND FAMILY AND MEDICAL LEAVE ACT TO:

(1) ALLOW EMPLOYEES TO BALANCE THEIR WORK AND FAMILY LIFE BY TAKING REASONABLE UNPAID LEAVE FOR MEDICAL REASONS, FOR THE BIRTH OR ADOPTION OF A CHILD, AND FOR THE CARE OF A SPOUSE, CHILD, OR PARENT WHO HAS A SERIOUS HEALTH CONDITION;

(2) BALANCE THE DEMANDS OF THE WORKPLACE WITH THE NEEDS OF FAMILIES, TO PROMOTE THE STABILITY AND ECONOMIC SECURITY OF FAMILIES, AND TO PRESERVE FAMILY INTEGRITY;

(3) INCREASE PRODUCTIVITY AND PROMOTE ATTACHMENT TO THE WORKFORCE BY REDUCING CONFLICT SITUATIONS INVOLVING THE NEEDS OF THE WORKPLACE AND THE PERSONAL NEEDS OF EMPLOYEES;

(4) SUPPLEMENT THE PROTECTIONS AFFORDED BY THE FEDERAL ACT IN ORDER TO PROMOTE MORE CONSISTENT AND EQUITABLE FAMILY LEAVE POLICIES IN THE WORKPLACE; AND

(5) OTHERWISE STRENGTHEN THE FAMILY AND WORKPLACE ENVIRONMENT.

12-103.

(A) SUBJECT TO § 12-104 OF THIS TITLE, AN ELIGIBLE EMPLOYEE IS ENTITLED TO A TOTAL OF 12 WORKWEEKS OF FAMILY LEAVE DURING ANY 12-MONTH PERIOD FOR ONE OR MORE OF THE FOLLOWING:

(1) THE BIRTH OF A CHILD OF THE EMPLOYEE FOR THE PURPOSE OF CARING FOR THE CHILD;

(2) THE PLACEMENT OF A CHILD WITH THE EMPLOYEE FOR ADOPTION OR FOSTER CARE;

(3) CARE FOR THE EMPLOYEE'S SPOUSE, CHILD, OR PARENT WHO HAS A SERIOUS HEALTH CONDITION; OR

(4) A SERIOUS HEALTH CONDITION OF THE EMPLOYEE THAT RENDERS THE EMPLOYEE UNABLE TO PERFORM AT LEAST ONE OF THE ESSENTIAL FUNCTIONS OF THE EMPLOYEE'S REGULAR POSITION.

(B) THE SECRETARY SHALL ADOPT REGULATIONS AUTHORIZING AN EMPLOYER TO DESIGNATE WHEN FAMILY LEAVE TAKEN UNDER SUBSECTION (A) OF THIS SECTION MAY BE TAKEN INTERMITTENTLY OR BY WORKING A REDUCED WORKWEEK TO THE EXTENT ALLOWED BY FEDERAL LAW.

12-104.

(A) NOTHING IN THIS SECTION MAY BE CONSTRUED TO REQUIRE AN EMPLOYER TO PROVIDE PAID SICK LEAVE OR PAID MEDICAL LEAVE IN A SITUATION THAT AN EMPLOYER WOULD NOT NORMALLY PROVIDE PAID SICK LEAVE OR PAID MEDICAL LEAVE.

(B) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, FAMILY LEAVE GRANTED UNDER § 12-103(A) OF THIS TITLE MAY CONSIST OF UNPAID LEAVE.

(C) (1) IF AN EMPLOYER PROVIDES PAID LEAVE FOR FEWER THAN 12 WORKWEEKS, THE ADDITIONAL WEEKS OF LEAVE NECESSARY TO ATTAIN 12 WORKWEEKS OF FAMILY LEAVE REQUIRED UNDER § 12-103(A) OF THIS TITLE MAY BE PROVIDED WITHOUT COMPENSATION.

(2) AN ELIGIBLE EMPLOYEE MAY ELECT OR AN EMPLOYER MAY REQUIRE THE EMPLOYEE TO SUBSTITUTE ANY:

(I) ACCRUED PAID VACATION LEAVE, PERSONAL LEAVE, OR FAMILY LEAVE OF THE EMPLOYEE FOR ANY PART OF THE 12-WEEK FAMILY LEAVE PROVIDED UNDER § 12-103(A)(1), (2), OR (3) OF THIS TITLE; AND

(II) ACCRUED PAID VACATION LEAVE, PERSONAL LEAVE, OR MEDICAL OR SICK LEAVE OF THE EMPLOYEE FOR ANY PART OF THE 12-WEEK FAMILY LEAVE PROVIDED UNDER § 12-103(4) OF THIS TITLE.

12-105.

(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN EMPLOYER MAY REQUIRE AN ELIGIBLE EMPLOYEE TO GIVE THE EMPLOYER WRITTEN NOTICE OF THE EMPLOYEE'S INTENTION TO TAKE FAMILY LEAVE AT LEAST 30 DAYS BEFORE COMMENCING FAMILY LEAVE UNDER § 12-103(A) OF THIS TITLE.

(2) AN EMPLOYER MAY REQUIRE THE EMPLOYEE TO INCLUDE AN EXPLANATION OF THE NEED FOR THE FAMILY LEAVE IN THE NOTICE.

(B) AN ELIGIBLE EMPLOYEE MAY BEGIN TAKING FAMILY LEAVE WITHOUT PRIOR NOTICE UNDER THE FOLLOWING CIRCUMSTANCES:

(1) AN UNEXPECTED SERIOUS HEALTH CONDITION OF THE EMPLOYEE OR THE SPOUSE, CHILD, OR PARENT OF THE EMPLOYEE; OR

(2) A PREMATURE BIRTH, UNEXPECTED ADOPTION, OR UNEXPECTED FOSTER PLACEMENT.

(C) IF AN ELIGIBLE EMPLOYEE BEGINS FAMILY LEAVE WITHOUT PRIOR NOTICE UNDER SUBSECTION (B) OF THIS SECTION, THE EMPLOYEE SHALL PROVIDE NOTICE TO THE EMPLOYER AS SOON AS PRACTICABLE.

(D) SUBJECT TO THE APPROVAL OF A HEALTH CARE PROVIDER, AN ELIGIBLE EMPLOYEE TAKING FAMILY LEAVE FOR A SERIOUS HEALTH CONDITION OF THE EMPLOYEE OR A SPOUSE, CHILD, OR PARENT OF THE EMPLOYEE SHALL MAKE A REASONABLE EFFORT TO SCHEDULE MEDICAL TREATMENT OR SUPERVISION AT TIMES THAT WILL MINIMIZE DISRUPTION OF THE EMPLOYER'S OPERATIONS.

(E) THE SECRETARY MAY ADOPT REGULATIONS AUTHORIZING AN EMPLOYER TO DESIGNATE FAMILY LEAVE REQUESTED UNDER THIS TITLE, INCLUDING RETROACTIVE DESIGNATION OF REQUESTED FAMILY LEAVE.

12-106.

(A) (1) AN EMPLOYER MAY REQUIRE THAT A REQUEST FOR FAMILY LEAVE UNDER § 12-103(A)(3) OR (4) OF THIS TITLE BE SUPPORTED BY A CERTIFICATION ISSUED BY A HEALTH CARE PROVIDER OF THE ELIGIBLE EMPLOYEE OR THE EMPLOYEE'S SPOUSE, CHILD, OR PARENT.

(2) AN EMPLOYEE SHALL PROVIDE, IN A TIMELY MANNER, A COPY OF THE CERTIFICATION TO THE EMPLOYER.

(B) CERTIFICATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

- (1) THE DATE THAT THE SERIOUS HEALTH CONDITION BEGAN;
- (2) THE PROBABLE DURATION OF THE CONDITION;
- (3) THE APPROPRIATE MEDICAL FACTS WITHIN THE KNOWLEDGE OF THE HEALTH CARE PROVIDER REGARDING THE CONDITION; AND
- (4)
 - (I) FOR FAMILY LEAVE TAKEN UNDER § 12-103(3) OF THIS TITLE, A STATEMENT THAT THE ELIGIBLE EMPLOYEE IS NEEDED TO CARE FOR THE EMPLOYEE'S SPOUSE, CHILD, OR PARENT AND THE AMOUNT OF TIME THAT THE EMPLOYEE IS NEEDED TO CARE FOR THE EMPLOYEE'S SPOUSE, CHILD, OR PARENT; AND
 - (II) FOR FAMILY LEAVE TAKEN UNDER § 12-103(4) OF THIS TITLE, A STATEMENT THAT THE EMPLOYEE IS UNABLE TO PERFORM THE FUNCTIONS OF THE POSITION OF THE EMPLOYEE.

(C) (1) IF AN EMPLOYER HAS REASON TO DOUBT THE VALIDITY OF THE CERTIFICATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, THE EMPLOYER MAY REQUIRE, AT THE EMPLOYER'S EXPENSE, AN ELIGIBLE EMPLOYEE TO OBTAIN THE OPINION OF A SECOND HEALTH CARE PROVIDER DESIGNATED OR APPROVED BY THE EMPLOYER CONCERNING ANY INFORMATION CERTIFIED UNDER SUBSECTION (B) OF THIS SECTION.

(2) A HEALTH CARE PROVIDER DESIGNATED OR APPROVED BY THE EMPLOYER MAY NOT BE EMPLOYED ON A REGULAR BASIS BY THE EMPLOYER.

(D) (1) IF THE OPINION OF THE SECOND HEALTH CARE PROVIDER CONFLICTS WITH THE ORIGINAL CERTIFICATION PROVIDED BY AN ELIGIBLE EMPLOYEE, AN EMPLOYER MAY REQUIRE, AT THE EMPLOYER'S EXPENSE, THAT THE EMPLOYEE OBTAIN THE OPINION OF A THIRD HEALTH CARE PROVIDER DESIGNATED OR APPROVED JOINTLY BY THE EMPLOYER AND THE EMPLOYEE CONCERNING THE INFORMATION CERTIFIED UNDER SUBSECTION (B) OF THIS SECTION.

(2) THE OPINION OF THE THIRD HEALTH CARE PROVIDER SHALL BE FINAL AND BINDING ON THE EMPLOYER AND THE EMPLOYEE.

(E) IN ADDITION TO THE CERTIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, AN EMPLOYER MAY REQUIRE SUBSEQUENT RECERTIFICATIONS ON A REASONABLE BASIS.

12-107.

(A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, AN ELIGIBLE EMPLOYEE WHO RETURNS TO WORK AFTER TAKING FAMILY LEAVE UNDER § 12-103(A) OF THIS TITLE IS ENTITLED TO BE RESTORED BY AN EMPLOYER:

(1) TO THE POSITION OF EMPLOYMENT HELD BY THE EMPLOYEE WHEN THE FAMILY LEAVE BEGAN; OR

(2) TO AN EQUIVALENT POSITION WITH EQUIVALENT EMPLOYMENT BENEFITS, PAY, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

(B) THE TAKING OF FAMILY LEAVE UNDER § 12-103(A) OF THIS TITLE MAY NOT RESULT IN THE LOSS OF AN EMPLOYMENT BENEFIT ACCRUED PRIOR TO THE DATE ON WHICH FAMILY LEAVE BEGAN.

(C) THIS SECTION DOES NOT ENTITLE AN ELIGIBLE EMPLOYEE TO:

(1) ACCRUAL OF SENIORITY OR EMPLOYMENT BENEFITS DURING A PERIOD OF FAMILY LEAVE TAKEN UNDER § 12-103(A) OF THIS TITLE; OR

(2) A RIGHT, BENEFIT, OR POSITION OF EMPLOYMENT OTHER THAN THE RIGHTS, BENEFITS, AND POSITION THAT THE EMPLOYEE WOULD HAVE BEEN ENTITLED TO HAD THE EMPLOYEE NOT TAKEN THE FAMILY LEAVE.

(D) (1) BEFORE RESTORING AN ELIGIBLE EMPLOYEE TO A POSITION UNDER SUBSECTION (A) OF THIS SECTION, AN EMPLOYER MAY REQUIRE THAT THE EMPLOYEE RECEIVE CERTIFICATION FROM THE EMPLOYEE'S HEALTH CARE PROVIDER THAT THE EMPLOYEE IS ABLE TO RESUME WORK.

(2) CERTIFICATION REQUIRED UNDER THIS SUBSECTION MAY ONLY BE REQUIRED UNDER A UNIFORMLY APPLIED PRACTICE OR POLICY OF THE EMPLOYER.

(3) THIS SUBSECTION DOES NOT AFFECT THE ABILITY OF AN EMPLOYER TO REQUIRE AN EMPLOYEE DURING A PERIOD OF FAMILY LEAVE TO REPORT PERIODICALLY TO THE EMPLOYER ON THE EMPLOYEE'S STATUS AND ON THE EMPLOYEE'S INTENTION TO RETURN TO WORK.

(E) AN EMPLOYER MAY DENY RESTORATION OF THE ELIGIBLE EMPLOYEE'S POSITION OF EMPLOYMENT UNDER SUBSECTION (A) OF THIS SECTION IF:

(1) THE DENIAL IS NECESSARY TO PREVENT SUBSTANTIAL AND GRIEVOUS ECONOMIC INJURY TO THE OPERATIONS OF THE EMPLOYER;

(2) THE EMPLOYER NOTIFIES THE EMPLOYEE OF THE INTENT OF THE EMPLOYER TO DENY RESTORATION OF THE EMPLOYEE'S POSITION OF EMPLOYMENT AT THE TIME THE EMPLOYER DETERMINES THAT ECONOMIC INJURY WOULD OCCUR; AND

(3) IN A CASE OF FAMILY LEAVE UNDER § 12-103(A) OF THIS SECTION THAT HAS ALREADY BEGUN, THE EMPLOYEE ELECTS NOT TO RETURN TO EMPLOYMENT AFTER RECEIVING NOTICE OF THE EMPLOYER'S INTENTION TO DENY RESTORATION OF THE EMPLOYEE'S POSITION OF EMPLOYMENT.

12-108.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, DURING ANY PERIOD THAT AN ELIGIBLE EMPLOYEE TAKES FAMILY LEAVE UNDER § 12-103(A) OF THIS TITLE, AN EMPLOYER SHALL MAINTAIN COVERAGE OF A GROUP HEALTH PLAN FOR THE DURATION OF THE FAMILY LEAVE AND IN THE SAME MANNER THAT COVERAGE WOULD HAVE BEEN PROVIDED IF THE EMPLOYEE HAD CONTINUED IN EMPLOYMENT CONTINUOUSLY FOR THE DURATION OF THE FAMILY LEAVE.

(B) (1) AN EMPLOYER MAY RECOVER THE PREMIUM THAT THE EMPLOYER PAID FOR MAINTAINING COVERAGE FOR AN ELIGIBLE EMPLOYEE UNDER A GROUP HEALTH PLAN DURING THE PERIOD OF FAMILY LEAVE UNDER § 12-103(A) OF THIS TITLE IF THE EMPLOYEE FAILS TO RETURN TO EMPLOYMENT WITH THE EMPLOYER AFTER THE PERIOD OF FAMILY LEAVE TO WHICH THE EMPLOYEE IS ENTITLED HAS EXPIRED.

(2) THIS SUBSECTION DOES NOT APPLY IN THE CASE OF AN EMPLOYEE WHO FAILS TO RETURN TO WORK BECAUSE OF:

(I) A CONTINUATION, RECURRENCE, OR ONSET OF A SERIOUS HEALTH CONDITION THAT WOULD ENTITLE THE EMPLOYEE TO FAMILY LEAVE FOR ONE OF THE PURPOSES SPECIFIED UNDER § 12-103(A)(3) OR (4) OF THIS TITLE; OR

(II) OTHER CIRCUMSTANCES BEYOND THE CONTROL OF THE EMPLOYEE.

(C) (1) AN EMPLOYER MAY REQUIRE THAT A CLAIM UNDER SUBSECTION (B)(1) OF THIS SECTION THAT AN ELIGIBLE EMPLOYEE IS UNABLE TO RETURN TO WORK BECAUSE OF THE CONTINUATION, RECURRENCE, OR ONSET OF A SERIOUS HEALTH CONDITION BE SUPPORTED BY A CERTIFICATION ISSUED BY A HEALTH CARE PROVIDER OF:

(I) A SPOUSE, CHILD, OR PARENT OF THE EMPLOYEE, IF THE EMPLOYEE IS UNABLE TO RETURN TO WORK BECAUSE OF A CONDITION SPECIFIED IN § 12-103(A)(3) OF THIS TITLE; OR

(II) THE EMPLOYEE IF THE EMPLOYEE IS UNABLE TO RETURN TO WORK BECAUSE OF A CONDITION SPECIFIED IN § 12-103(A)(4) OF THIS TITLE.

(2) THE EMPLOYEE SHALL PROVIDE, IN A TIMELY MANNER, A COPY OF THE CERTIFICATION TO THE EMPLOYER.

12-109.

AN EMPLOYER SHALL KEEP RECORDS RELATING TO COMPLIANCE WITH THIS TITLE THAT THE SECRETARY REQUIRES.

12-110.

AN EMPLOYER SHALL KEEP POSTED CONSPICUOUSLY IN EACH PLACE OF EMPLOYMENT A NOTICE THAT ADVISES EMPLOYEES OF THEIR RIGHTS UNDER THIS TITLE.

12-111.

(A) IN ADDITION TO REGULATIONS SPECIFICALLY REQUIRED BY THIS TITLE, THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS TITLE.

(B) (1) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, REGULATIONS ADOPTED UNDER THIS TITLE SHALL BE CONSISTENT WITH REGULATIONS ADOPTED UNDER THE FEDERAL ACT.

(2) WHERE PRACTICABLE, THE SECRETARY MAY DEVELOP STREAMLINED PROCEDURES AND STANDARDIZED FORMS TO IMPLEMENT THE PROVISIONS OF THIS TITLE.

12-112.

(A) IF AN EMPLOYER VIOLATES THIS TITLE, AN AFFECTED EMPLOYEE MAY BRING AN ACTION AGAINST THE EMPLOYER TO RECOVER DAMAGES EQUAL TO THE AMOUNT OF ANY WAGES, SALARY, EMPLOYMENT BENEFITS, OR OTHER COMPENSATION DENIED OR LOST AND AN ADDITIONAL EQUAL AMOUNT AS LIQUIDATED DAMAGES.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN ACTION UNDER THIS SECTION SHALL BE FILED WITHIN 2 YEARS OF THE ACT ON WHICH THE ACTION IS BASED.

(2) AN ACTION FOR A WILLFUL VIOLATION OF § 12-113 OF THIS TITLE SHALL BE FILED WITHIN 3 YEARS OF THE ACT ON WHICH THE ACTION IS BASED.

(C) IF A COURT DETERMINES THAT AN EMPLOYEE IS ENTITLED TO JUDGMENT IN AN ACTION UNDER THIS SECTION, THE COURT SHALL ALLOW AGAINST THE EMPLOYER REASONABLE ATTORNEY'S FEES, REASONABLE EXPERT WITNESS FEES, AND OTHER COSTS OF THE ACTION.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SUPERVISORY EMPLOYEE OF AN EMPLOYER MAY NOT BE PERSONALLY LIABLE FOR A VIOLATION OF THIS TITLE.

12-113.

(A) AN EMPLOYER MAY NOT:

(1) VIOLATE ANY PROVISION OF THIS TITLE;

(2) HINDER, DELAY, OR OTHERWISE INTERFERE WITH THE SECRETARY OR AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY IN THE ENFORCEMENT OF THIS TITLE; OR

(3) DISCHARGE OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE:

(I) MAKES A COMPLAINT TO THE EMPLOYER, THE SECRETARY, OR ANOTHER PERSON;

(II) BRINGS AN ACTION UNDER THIS TITLE OR A PROCEEDING THAT RELATES TO THE SUBJECT OF THIS TITLE OR CAUSES THE ACTION OR PROCEEDING TO BE BROUGHT; OR

(III) HAS TESTIFIED OR WILL TESTIFY IN AN ACTION UNDER THIS TITLE OR A PROCEEDING THAT RELATES TO THE SUBJECT OF THIS TITLE.

(B) THE SECRETARY MAY BRING AN ACTION FOR INJUNCTIVE RELIEF AND DAMAGES AGAINST A PERSON WHO VIOLATES SUBSECTION (A)(1) OR (3) OF THIS SECTION.

(C) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH.

12-114.

NOTHING IN THIS TITLE MAY BE CONSTRUED TO MODIFY OR AFFECT ANY FEDERAL OR STATE LAW PROHIBITING DISCRIMINATION ON THE BASIS OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE, OR DISABILITY.

12-115.

(A) NOTHING IN THIS TITLE MAY BE CONSTRUED TO DIMINISH THE OBLIGATION OF AN EMPLOYER TO COMPLY WITH A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT BENEFIT PROGRAM OR PLAN THAT PROVIDES GREATER FAMILY OR MEDICAL LEAVE RIGHTS TO EMPLOYEES THAN THE RIGHTS ESTABLISHED UNDER THIS TITLE.

(B) THE RIGHTS ESTABLISHED FOR EMPLOYEES UNDER THIS TITLE MAY NOT BE DIMINISHED BY A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT BENEFIT PROGRAM OR PLAN.

12-116.

NOTHING IN THIS TITLE MAY BE CONSTRUED TO DISCOURAGE EMPLOYERS FROM ADOPTING OR RETAINING LEAVE POLICIES MORE GENEROUS THAN POLICIES THAT COMPLY WITH THIS TITLE.

12-117.

THIS TITLE SHALL BE CONSTRUED TO THE EXTENT POSSIBLE IN A MANNER THAT IS CONSISTENT WITH ANY SIMILAR PROVISIONS OF THE FEDERAL ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2003.