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By: **Senator Bromwell**
Introduced and read first time: February 16, 2000
Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2   **Labor and Employment - Employee Leave - Enforcement of Adoption**
3   **Provisions**

4 FOR the purpose of clarifying that an employer who provides leave with pay directly
5   or indirectly to an employee following the birth of the employee's child shall
6   provide the same leave with pay to an employee when a child is placed with the
7   employee for adoption; authorizing the Commissioner of Labor and Industry to
8   adopt certain regulations; authorizing the Commissioner to take certain actions
9   in certain situations; authorizing the court to award an employee certain
10   punitive damages in certain situations; establishing certain penalties; altering a
11   certain definition; providing for the termination of this Act; and generally
12   relating to the enforcement of certain employee leave provisions concerning
13   adoption.

14 BY repealing and reenacting, with amendments,
15   Article - Labor and Employment
16   Section 3-801 and 3-802
17   Annotated Code of Maryland
18   (1999 Replacement Volume)

19 BY adding to
20   Article - Labor and Employment
21   Section 3-803 through 3-805
22   Annotated Code of Maryland
23   (1999 Replacement Volume)

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

1   **Article - Labor and Employment**

2   3-801.

3   (a)   In this subtitle, "employer" means a person [engaged in a business,
4   industry, profession, trade, or other enterprise in the State] WHO EMPLOYS AN
5   INDIVIDUAL IN THE STATE OR A SUCCESSOR OF THE PERSON.

6   (b)   "Employer" includes:

7   (1)   a unit of State or local government that employs individuals who are
8   not subject to the provisions of Title 9, Subtitle 5 of the State Personnel and Pensions
9   Article; and

10   (2)   a person who acts directly or indirectly in the interest of another
11 employer with an employee.

12 3-802.

13   (a)   This subtitle applies to an employer who provides leave with pay
14 DIRECTLY OR INDIRECTLY to an employee following the birth of the employee's child.

15   (b)   An employer who provides leave with pay DIRECTLY OR INDIRECTLY to an
16 employee following the birth of the employee's child shall provide the same leave with
17 pay to an employee when a child is placed with the employee for adoption.

18 3-803.

19   (A)   THE COMMISSIONER SHALL ADMINISTER THIS SUBTITLE AND MAY ADOPT
20 REGULATIONS TO CARRY OUT THIS SUBTITLE.

21   (B)   IF THE COMMISSIONER DETERMINES THAT THIS SUBTITLE HAS BEEN
22 VIOLATED, THE COMMISSIONER:

23   (1)   MAY ATTEMPT TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION
24 BY MEDIATION;

25   (2)   MAY, WITH THE WRITTEN CONSENT OF THE EMPLOYEE, ASK THE
26 ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE EMPLOYEE; AND

27   (3)   MAY BRING AN ACTION ON BEHALF OF AN EMPLOYEE IN THE
28 COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED.

29   (C)   (1)   IN AN ACTION UNDER SUBSECTION (B) OF THIS SECTION, IF A COURT
30 FINDS THAT AN EMPLOYER WITHHELD LEAVE WITH PAY IN VIOLATION OF THIS
31 SUBTITLE AND THAT THE WITHHOLDING WAS NOT AS A RESULT OF A BONA FIDE
32 DISPUTE, THE COURT MAY AWARD THE EMPLOYEE AN AMOUNT NOT EXCEEDING
33 THREE TIMES THE PAYMENT FOR LEAVE, REASONABLE ATTORNEY'S FEES, AND
34 OTHER COSTS.

1   (2)   IF PAYMENT FOR LEAVE IS RECOVERED UNDER THIS SUBTITLE, THE
2 PAYMENT SHALL BE PAID TO THE EMPLOYEE WITHOUT COST TO THE EMPLOYEE.

3 3-804.

4   (A)   NOTWITHSTANDING ANY REMEDY AVAILABLE UNDER § 3-803 OF THIS
5 SUBTITLE, IF AN EMPLOYER FAILS TO PAY AN EMPLOYEE IN ACCORDANCE WITH §
6 3-803 OF THIS SUBTITLE AND MORE THAN 2 WEEKS HAVE ELAPSED FROM THE DATE
7 THAT THE EMPLOYER WAS REQUIRED TO PAY THE LEAVE, THE EMPLOYEE MAY
8 BRING AN ACTION AGAINST THE EMPLOYER TO RECOVER THE UNPAID LEAVE.

9   (B)   IN AN ACTION UNDER SUBSECTION (A) OF THIS SECTION, IF A COURT
10 FINDS THAT AN EMPLOYER WITHHELD LEAVE WITH PAY IN VIOLATION OF THIS
11 SUBTITLE AND NOT AS THE RESULT OF A BONA-FIDE DISPUTE, THE COURT MAY
12 AWARD THE EMPLOYEE AN AMOUNT NOT EXCEEDING THREE TIMES THE PAYMENT
13 FOR LEAVE, REASONABLE ATTORNEY'S FEES, AND OTHER COSTS.

14 3-805.

15   (A)   AN EMPLOYER WHO WILLFULLY VIOLATES THIS SUBTITLE IS GUILTY OF A
16 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000.

17   (B)   AN EMPLOYEE WHO KNOWINGLY MAKES A FALSE STATEMENT WITH
18 RESPECT TO ANY INVESTIGATION OR PROCEEDING UNDER THIS SUBTITLE TO A
19 GOVERNMENTAL UNIT OR OFFICIAL WITH THE INTENT THAT THE GOVERNMENTAL
20 UNIT OR OFFICIAL CONSIDER OR ACT IN CONNECTION WITH THE STATEMENT IS
21 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
22 EXCEEDING $500.

23   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2000. It shall remain effective for a period of 2 years and, at the end of June
25 30, 2002, with no further action required by the General Assembly, this Act shall be
26 abrogated and of no further force and effect.