
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

1 AN ACT concerning

2 **Maryland Family and Medical Leave Act**

3 FOR the purpose of establishing the Maryland Family and Medical Leave Act;
4 providing certain employees a total of 12 workweeks of family leave in a
5 12-month period under certain circumstances; providing that the family leave
6 granted by an employer may be unpaid leave; providing that certain paid leave
7 may be substituted for any part of the 12 workweeks of leave under certain
8 circumstances; authorizing an employer to require an eligible employee to
9 provide written notice of the eligible employee's intention to take family leave
10 under certain circumstances; authorizing an employer to require that certain
11 requests for family leave be supported by a certain certification issued by a
12 certain health care provider; requiring that an eligible employee returning to
13 work after taking leave be restored to the position of employment held by the
14 employee when the leave began under certain circumstances; requiring an
15 employer to maintain certain health coverage for the duration of the eligible
16 employee's leave under certain circumstances; requiring an employer to keep
17 certain records; requiring an employer to keep posted conspicuously in each
18 place of employment a certain notice; requiring the Secretary of Labor,
19 Licensing, and Regulation to adopt certain regulations; authorizing an employee
20 to bring an action against an employer for certain damages under certain
21 circumstances; prohibiting certain acts; providing for certain penalties; defining
22 certain terms; providing for the purposes of this Act; providing for a delayed
23 effective date; and generally relating to family and medical leave.

24 BY adding to
25 Article - Labor and Employment
26 Section 12-101 through 12-117, inclusive, to be under the new title "Title 12.
27 The Maryland Family and Medical Leave Act"
28 Annotated Code of Maryland
29 (1999 Replacement Volume and 2001 Supplement)

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

3 **Article - Labor and Employment**

4 TITLE 12. THE MARYLAND FAMILY AND MEDICAL LEAVE ACT.

5 12-101.

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

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

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

13 (I) A 12-MONTH PERIOD; AND

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

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

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

23 (2) "EMPLOYER" INCLUDES:

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

27 (II) A SUCCESSOR IN INTEREST OF AN EMPLOYER.

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

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

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

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

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

4 (2) "FEDERAL ACT" INCLUDES REGULATIONS ADOPTED BY THE U.S.
5 DEPARTMENT OF LABOR TO IMPLEMENT THE FAMILY AND MEDICAL LEAVE ACT OF
6 1993.

7 (H) "HEALTH CARE PROVIDER" MEANS:

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

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

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

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

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

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

21 (2) CONTINUING TREATMENT BY A HEALTH CARE PROVIDER.

22 12-102.

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

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

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

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

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

4 (5) OTHERWISE STRENGTHEN THE FAMILY AND WORKPLACE
5 ENVIRONMENT.

6 12-103.

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

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

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

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

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

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

23 12-104.

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

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

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

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

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

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

7 12-105.

8 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN
9 EMPLOYER MAY REQUIRE AN ELIGIBLE EMPLOYEE TO GIVE THE EMPLOYER
10 WRITTEN NOTICE OF THE EMPLOYEE'S INTENTION TO TAKE FAMILY LEAVE AT LEAST
11 30 DAYS BEFORE COMMENCING FAMILY LEAVE UNDER § 12-103(A) OF THIS TITLE.

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

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

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

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

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

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

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

31 12-106.

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

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

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

3 (1) THE DATE THAT THE SERIOUS HEALTH CONDITION BEGAN;

4 (2) THE PROBABLE DURATION OF THE CONDITION;

5 (3) THE APPROPRIATE MEDICAL FACTS WITHIN THE KNOWLEDGE OF
6 THE HEALTH CARE PROVIDER REGARDING THE CONDITION; AND

7 (4) (I) FOR FAMILY LEAVE TAKEN UNDER § 12-103(3) OF THIS TITLE, A
8 STATEMENT THAT THE ELIGIBLE EMPLOYEE IS NEEDED TO CARE FOR THE
9 EMPLOYEE'S SPOUSE, CHILD, OR PARENT AND THE AMOUNT OF TIME THAT THE
10 EMPLOYEE IS NEEDED TO CARE FOR THE EMPLOYEE'S SPOUSE, CHILD, OR PARENT;
11 AND

12 (II) FOR FAMILY LEAVE TAKEN UNDER § 12-103(4) OF THIS TITLE, A
13 STATEMENT THAT THE EMPLOYEE IS UNABLE TO PERFORM THE FUNCTIONS OF THE
14 POSITION OF THE EMPLOYEE.

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

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

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

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

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

34 12-107.

35 (A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, AN
36 ELIGIBLE EMPLOYEE WHO RETURNS TO WORK AFTER TAKING FAMILY LEAVE UNDER
37 § 12-103(A) OF THIS TITLE IS ENTITLED TO BE RESTORED BY AN EMPLOYER:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 12-108.

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

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

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

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

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

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

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

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

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

33 12-109.

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

1 12-110.

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

5 12-111.

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

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

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

15 12-112.

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

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

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

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

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

33 12-113.

34 (A) AN EMPLOYER MAY NOT:

35 (1) VIOLATE ANY PROVISION OF THIS TITLE;

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

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

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

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

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

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

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

19 12-114.

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

23 12-115.

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

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

32 12-116.

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

1 12-117.

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

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