

SENATE BILL 659

Unofficial Copy  
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2002 Regular Session  
2lr2036  
CF 2lr0362

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By: **Senator Ruben (Montgomery County Administration) and Senators  
Currie, Dorman, Exum, Forehand, Frosh, Hoffman, Hollinger,  
McFadden, Pinsky, and Van Hollen**

Introduced and read first time: February 1, 2002

Assigned to: Finance

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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)

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

1 **Article - Labor and Employment**

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

3 12-101.

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

5 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR, LICENSING, AND  
6 REGULATION.7 (C) (1) "ELIGIBLE EMPLOYEE" MEANS AN INDIVIDUAL WHO HAS  
8 REQUESTED THAT AN EMPLOYER PROVIDE FAMILY LEAVE AND WHO, AS OF THE  
9 DATE THAT THE REQUESTED FAMILY LEAVE BEGINS, WILL HAVE BEEN EMPLOYED  
10 BY THAT EMPLOYER FOR AT LEAST:

11 (I) A 12-MONTH PERIOD; AND

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

13 (2) "ELIGIBLE EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL WHO IS  
14 EMPLOYED AT A WORKSITE AT WHICH THE EMPLOYER EMPLOYS LESS THAN 25  
15 EMPLOYEES IF THE TOTAL NUMBER OF EMPLOYEES EMPLOYED BY THAT EMPLOYER  
16 WITHIN 75 MILES OF THE WORKSITE IS ALSO LESS THAN 25.17 (D) (1) "EMPLOYER" MEANS A PERSON WHO EMPLOYS AT LEAST 25 BUT NOT  
18 MORE THAN 49 INDIVIDUALS IN THE STATE FOR EACH WORKING DAY DURING EACH  
19 OF 20 OR MORE CALENDAR WORKWEEKS IN THE CURRENT OR PRECEDING  
20 CALENDAR YEAR.

21 (2) "EMPLOYER" INCLUDES:

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

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

26 (3) "EMPLOYER" DOES NOT INCLUDE A GOVERNMENTAL UNIT COVERED  
27 BY THE FEDERAL ACT.28 (E) (1) "EMPLOYMENT BENEFITS" MEANS BENEFITS PROVIDED OR MADE  
29 AVAILABLE TO AN EMPLOYEE BY AN EMPLOYER.30 (2) "EMPLOYMENT BENEFITS" INCLUDES GROUP LIFE INSURANCE,  
31 HEALTH INSURANCE, DISABILITY INSURANCE, SICK LEAVE, ANNUAL LEAVE,  
32 EDUCATIONAL BENEFITS, AND PENSIONS.

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

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

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

6 (H) "HEALTH CARE PROVIDER" MEANS:

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

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

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

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

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

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

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

21 12-102.

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

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

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

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

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

1 (5) OTHERWISE STRENGTHEN THE FAMILY AND WORKPLACE  
2 ENVIRONMENT.

3 12-103.

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

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

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

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

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

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

20 12-104.

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

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

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

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

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

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

4 12-105.

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

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

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

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

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

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

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

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

28 12-106.

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

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

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

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

2 (2) THE PROBABLE DURATION OF THE CONDITION;

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

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

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

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

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

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

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

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

32 12-107.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 12-108.

35 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, DURING ANY  
36 PERIOD THAT AN ELIGIBLE EMPLOYEE TAKES FAMILY LEAVE UNDER § 12-103(A) OF  
37 THIS TITLE, AN EMPLOYER SHALL MAINTAIN COVERAGE OF A GROUP HEALTH PLAN

1 FOR THE DURATION OF THE FAMILY LEAVE AND IN THE SAME MANNER THAT  
2 COVERAGE WOULD HAVE BEEN PROVIDED IF THE EMPLOYEE HAD CONTINUED IN  
3 EMPLOYMENT CONTINUOUSLY FOR THE DURATION OF THE FAMILY LEAVE.

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

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

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

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

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

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

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

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

29 12-109.

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

32 12-110.

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

1 12-111.

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

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

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

11 12-112.

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

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

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

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

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

29 12-113.

30 (A) AN EMPLOYER MAY NOT:

31 (1) VIOLATE ANY PROVISION OF THIS TITLE;

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

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

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

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

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

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

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

14 12-114.

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

18 12-115.

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

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

27 12-116.

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

31 12-117.

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

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