

HOUSE BILL 212

K3

71r0789
CF 71r1430

By: **Delegates Doory, Braveboy, DeBoy, Dumais, Feldman, Guzzone, Hecht, Hubbard, Jameson, Kirk, Krysiak, Kullen, Levi, Love, Malone, Mathias, Minnick, Pendergrass, Taylor, and Vaughn**

Introduced and read first time: January 26, 2007

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Leave with Pay – Illness of Employee’s Immediate**
3 **Family**

4 FOR the purpose of authorizing employees of certain employers to use leave with pay
5 for the illness of the employee’s immediate family; providing that an employee
6 may only use leave with pay that has been earned; providing that an employee
7 who earns more than one type of leave with pay may elect the type and amount
8 of leave with pay to be used; requiring an employee who uses leave with pay
9 under this Act to comply with the terms of a collective bargaining agreement or
10 employment policy with a certain exception; providing that the terms of a
11 collective bargaining agreement or employment policy shall prevail under
12 certain circumstances; prohibiting an employer from eliminating or threatening
13 to eliminate an existing leave with pay benefit; prohibiting an employer from
14 taking certain actions against an employee who exercises certain rights, files a
15 complaint, testifies against, or assists in a certain action; providing that this Act
16 does not affect leave granted under the federal Family and Medical Leave Act;
17 defining certain terms; and generally relating to leave with pay and illness of an
18 employee’s immediate family.

19 BY repealing and reenacting, with amendments,
20 Article – Labor and Employment
21 Section 3–801 and 3–802
22 Annotated Code of Maryland
23 (1999 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Labor and Employment
3 Section 3–802
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2006 Supplement)

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

8 **Article – Labor and Employment**

9 **3–801.**

10 (a) (1) In this [subtitle] **SECTION**, “employer” means a person engaged in
11 a business, industry, profession, trade, or other enterprise in the State.

12 [(b)] (2) “Employer” includes:

13 [(1)] (I) a unit of State or local government that employs individuals
14 who are not subject to the provisions of Title 9, Subtitle 5 of the State Personnel and
15 Pensions Article; and

16 [(2)] (II) a person who acts directly or indirectly in the interest of
17 another employer with an employee.

18 **[3–802.]**

19 [(a)] (B) This [subtitle] **SECTION** applies to an employer who provides leave
20 with pay to an employee following the birth of the employee’s child.

21 [(b)] (C) An employer who provides leave with pay to an employee following
22 the birth of the employee’s child shall provide the same leave with pay to an employee
23 when a child is placed with the employee for adoption.

24 **3–802.**

25 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
26 **MEANINGS INDICATED.**

1 (2) (I) **“EMPLOYER” MEANS A PERSON ENGAGED IN A**
2 **BUSINESS, INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE**
3 **STATE.**

4 (II) **“EMPLOYER” INCLUDES A PERSON WHO ACTS DIRECTLY**
5 **OR INDIRECTLY IN THE INTEREST OF ANOTHER EMPLOYER WITH AN EMPLOYEE.**

6 (3) **“IMMEDIATE FAMILY” INCLUDES A CHILD, SPOUSE, AND**
7 **PARENT.**

8 (4) (I) **“LEAVE WITH PAY” MEANS TIME AWAY FROM WORK FOR**
9 **WHICH AN EMPLOYEE RECEIVES COMPENSATION.**

10 (II) **“LEAVE WITH PAY” INCLUDES SICK LEAVE, VACATION**
11 **TIME, AND COMPENSATORY TIME.**

12 (B) **THIS SECTION APPLIES TO AN EMPLOYER THAT PROVIDES LEAVE**
13 **WITH PAY UNDER THE TERMS OF:**

14 (1) **A COLLECTIVE BARGAINING AGREEMENT; OR**

15 (2) **AN EMPLOYMENT POLICY.**

16 (C) **AN EMPLOYEE OF AN EMPLOYER MAY USE LEAVE WITH PAY FOR**
17 **THE ILLNESS OF THE EMPLOYEE’S IMMEDIATE FAMILY.**

18 (D) (1) **AN EMPLOYEE OF AN EMPLOYER:**

19 (I) **MAY ONLY USE LEAVE WITH PAY UNDER THIS SECTION**
20 **THAT HAS BEEN EARNED; AND**

21 (II) **WHO EARNS MORE THAN ONE TYPE OF LEAVE WITH PAY**
22 **MAY ELECT THE TYPE AND AMOUNT OF LEAVE WITH PAY TO BE USED UNDER**
23 **THIS SECTION.**

24 (2) **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
25 **SUBSECTION, AN EMPLOYEE OF AN EMPLOYER WHO USES LEAVE UNDER THIS**
26 **SECTION SHALL COMPLY WITH THE TERMS OF A COLLECTIVE BARGAINING**
27 **AGREEMENT OR EMPLOYMENT POLICY.**

1 **(3) IF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT**
2 **WITH AN EMPLOYER OR AN EMPLOYMENT POLICY OF AN EMPLOYER PROVIDE A**
3 **LEAVE WITH PAY BENEFIT THAT IS EQUAL TO OR GREATER THAN THE BENEFIT**
4 **PROVIDED UNDER THIS SECTION, THE COLLECTIVE BARGAINING AGREEMENT**
5 **OR EMPLOYMENT POLICY PREVAILS.**

6 **(E) AN EMPLOYER MAY NOT:**

7 **(1) ELIMINATE OR THREATEN TO ELIMINATE AN EXISTING LEAVE**
8 **WITH PAY BENEFIT; OR**

9 **(2) DISCHARGE, DEMOTE, SUSPEND, DISCIPLINE, OR OTHERWISE**
10 **DISCRIMINATE AGAINST AN EMPLOYEE OR THREATEN TO TAKE ANY OF THESE**
11 **ACTIONS AGAINST AN EMPLOYEE:**

12 **(I) WHO EXERCISES RIGHTS GRANTED UNDER THIS**
13 **SECTION; OR**

14 **(II) WHO FILES A COMPLAINT, TESTIFIES AGAINST, OR**
15 **ASSISTS IN AN ACTION BROUGHT AGAINST THE EMPLOYER FOR A VIOLATION OF**
16 **THIS SECTION.**

17 **(F) THIS SECTION DOES NOT AFFECT LEAVE GRANTED UNDER THE**
18 **FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2007.