

# SENATE BILL 260

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CF HB 212

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By: **Senators Garagiola, Exum, and Madaleno**

Introduced and read first time: January 29, 2007

Assigned to: Finance

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## 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)

24 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Labor and Employment  
Section 3–802  
Annotated Code of Maryland  
(1999 Replacement Volume and 2006 Supplement)

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

**Article – Labor and Employment**

3–801.

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

[(b)] (2) “Employer” includes:

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

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

[3–802.]

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

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

**3–802.**

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

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

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

3                   (3)    “IMMEDIATE FAMILY” INCLUDES A CHILD, SPOUSE, AND  
4   PARENT.

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

7                               (II)   “LEAVE WITH PAY” INCLUDES SICK LEAVE, VACATION  
8   TIME, AND COMPENSATORY TIME.

9                   (B)    THIS SECTION APPLIES TO AN EMPLOYER THAT PROVIDES LEAVE  
10   WITH PAY UNDER THE TERMS OF:

11                               (1)    A COLLECTIVE BARGAINING AGREEMENT; OR

12                               (2)    AN EMPLOYMENT POLICY.

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

15                   (D)    (1)    AN EMPLOYEE OF AN EMPLOYER:

16                               (I)    MAY ONLY USE LEAVE WITH PAY UNDER THIS SECTION  
17   THAT HAS BEEN EARNED; AND

18                               (II)   WHO EARNS MORE THAN ONE TYPE OF LEAVE WITH PAY  
19   MAY ELECT THE TYPE AND AMOUNT OF LEAVE WITH PAY TO BE USED UNDER  
20   THIS SECTION.

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

25                               (3)    IF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT  
26   WITH AN EMPLOYER OR AN EMPLOYMENT POLICY OF AN EMPLOYER PROVIDE A

1 LEAVE WITH PAY BENEFIT THAT IS EQUAL TO OR GREATER THAN THE BENEFIT  
2 PROVIDED UNDER THIS SECTION, THE COLLECTIVE BARGAINING AGREEMENT  
3 OR EMPLOYMENT POLICY PREVAILS.

4 (E) AN EMPLOYER MAY NOT:

5 (1) ELIMINATE OR THREATEN TO ELIMINATE AN EXISTING LEAVE  
6 WITH PAY BENEFIT; OR

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

10 (I) WHO EXERCISES RIGHTS GRANTED UNDER THIS  
11 SECTION; OR

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

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

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