

HOUSE BILL 40

K3

8lr0755

(PRE-FILED)

By: **Delegate Doory**

Requested: September 25, 2007

Introduced and read first time: January 9, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Flexible Leave Act**

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

16 BY repealing and reenacting, with amendments,
17 Article – Labor and Employment
18 Section 3–801 and 3–802
19 Annotated Code of Maryland
20 (1999 Replacement Volume and 2007 Supplement)

21 BY adding to
22 Article – Labor and Employment
23 Section 3–802
24 Annotated Code of Maryland
25 (1999 Replacement Volume and 2007 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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.

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

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

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

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

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

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

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

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

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

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

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

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

19 **(3) IF THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT**
20 **WITH AN EMPLOYER OR AN EMPLOYMENT POLICY OF AN EMPLOYER PROVIDE A**
21 **LEAVE WITH PAY BENEFIT THAT IS EQUAL TO OR GREATER THAN THE BENEFIT**
22 **PROVIDED UNDER THIS SECTION, THE COLLECTIVE BARGAINING AGREEMENT**
23 **OR EMPLOYMENT POLICY PREVAILS.**

24 **(E) AN EMPLOYER MAY NOT DISCHARGE, DEMOTE, SUSPEND,**
25 **DISCIPLINE, OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE OR**
26 **THREATEN TO TAKE ANY OF THESE ACTIONS AGAINST AN EMPLOYEE:**

27 **(1) WHO EXERCISES RIGHTS GRANTED UNDER THIS SECTION; OR**

28 **(2) WHO FILES A COMPLAINT, TESTIFIES AGAINST, OR ASSISTS IN**
29 **AN ACTION BROUGHT AGAINST THE EMPLOYER FOR A VIOLATION OF THIS**
30 **SECTION.**

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2008.