

HOUSE BILL 1296

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By: **Delegates Mizeur, Bronrott, Carr, Donoghue, and Waldstreicher**
Introduced and read first time: February 13, 2009
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Healthy Families Healthy Workplaces Act**

3 FOR the purpose of expanding certain provisions authorizing certain employees to use
4 leave with pay for certain reasons; specifying that certain employees shall
5 accrue a certain minimum earned leave with pay for certain purposes; limiting
6 the number of days of certain earned leave with pay an employee may earn for
7 each calendar year; authorizing certain employees to use the earned leave with
8 pay for certain purposes; requiring the Commissioner of Labor and Industry to
9 adopt certain regulations; authorizing the Commissioner to carry out and
10 enforce certain provisions of law and conduct certain investigations; altering the
11 definition of “employer” to repeal the requirement for a certain minimum
12 number of employees; altering certain other definitions; and generally relating
13 to paid sick leave.

14 BY repealing and reenacting, with amendments,
15 Article – Labor and Employment
16 Section 3–102(a), 3–103, 3–801, and 3–802
17 Annotated Code of Maryland
18 (2008 Replacement Volume)

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

21 **Article – Labor and Employment**

22 3–102.

23 (a) In addition to any duties set forth elsewhere, the Commissioner shall:

24 (1) enforce Subtitle 2 of this title;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (2) carry out Subtitle 3 of this title; [and]

2 (3) enforce Subtitle 4 of this title; **AND**

3 (4) **CARRY OUT AND ENFORCE SUBTITLE 8 OF THIS TITLE.**

4 3–103.

5 (a) The Commissioner may conduct an investigation under Subtitle 2 of this
6 title, on the Commissioner’s own initiative or may require a written complaint.

7 (b) The Commissioner may conduct an investigation under Subtitle 4 of this
8 title, on the Commissioner’s own initiative or on receipt of a written complaint.

9 (c) The Commissioner may conduct an investigation to determine whether
10 Subtitle 5 of this title has been violated on receipt of a written complaint of an
11 employee.

12 (d) (1) The Commissioner may investigate whether § 3–701 of this title
13 has been violated on receipt of a written complaint of an applicant for employment.

14 (2) The Commissioner may investigate whether § 3–702 of this title
15 has been violated on receipt of a written complaint of an applicant for employment or
16 an employee.

17 **(E) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION UNDER**
18 **SUBTITLE 8 OF THIS TITLE, ON THE COMMISSIONER’S OWN INITIATIVE OR ON**
19 **RECEIPT OF A WRITTEN COMPLAINT.**

20 3–801.

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

23 (2) “Employer” includes:

24 (i) a unit of State or local government that employs individuals
25 who are not subject to the provisions of Title 9, Subtitle 5 of the State Personnel and
26 Pensions Article; and

27 (ii) a person who acts directly or indirectly in the interest of
28 another employer with an employee.]

29 [(b)] (A) This section applies to an employer who provides leave with pay to
30 an employee following the birth of the employee’s child.

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

4 3–802.

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) (I) **“ABUSE” HAS THE MEANING STATED IN § 4–501 OF THE**
7 **FAMILY LAW ARTICLE WHEN CAUSED BY AN IMMEDIATE FAMILY MEMBER.**

8 (II) **“ABUSE” INCLUDES:**

9 1. **A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OF**
10 **THE CRIMINAL LAW ARTICLE; AND**

11 2. **CHILD ABUSE AS DEFINED IN TITLE 5, SUBTITLE 7**
12 **OF THE FAMILY LAW ARTICLE.**

13 [(2)] (3) (i) “Employer” means a person that [employs 15 or more
14 individuals and] is engaged in a business, industry, profession, trade, or other
15 enterprise in the State.

16 (ii) “Employer” includes a person who acts directly or indirectly
17 in the interest of another employer with an employee.

18 [(3)] (4) “Immediate family” includes a child, spouse, **DOMESTIC**
19 **PARTNER, CHILD OF A DOMESTIC PARTNER, BROTHER, SISTER, GRANDPARENT,**
20 **GRANDCHILD,** and parent.

21 [(4)] (5) [(i)] “Leave with pay” means time away from work for
22 which an employee receives compensation.

23 [(ii) “Leave with pay” includes sick leave, vacation time, and
24 compensatory time.]

25 (b) [This section applies to an employer that provides leave with pay under
26 the terms of:

27 (1) a collective bargaining agreement; or

28 (2) an employment policy.]

1 **(1) AN EMPLOYEE WHO WORKS FOR 56 OR MORE HOURS IN A**
2 **CALENDAR YEAR IS ENTITLED TO LEAVE WITH PAY FOR THE PURPOSES**
3 **DESCRIBED IN SUBSECTION (C) OF THIS SECTION.**

4 **(2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (3) OF THIS**
5 **SUBSECTION, AN EMPLOYEE SHALL ACCRUE NO LESS THAN 1 HOUR OF LEAVE**
6 **WITH PAY UNDER THIS SECTION FOR EVERY 30 HOURS WORKED.**

7 **(3) (I) EMPLOYEES WHO WORK FOR EMPLOYERS THAT EMPLOY**
8 **FEWER THAN 15 EMPLOYEES MAY NOT EARN MORE THAN 40 HOURS OF LEAVE**
9 **WITH PAY UNDER THIS SECTION FOR EACH CALENDAR YEAR.**

10 **(II) EMPLOYEES WHO WORK FOR EMPLOYERS THAT EMPLOY**
11 **15 OR MORE EMPLOYEES MAY NOT EARN MORE THAN 72 HOURS OF LEAVE WITH**
12 **PAY UNDER THIS SECTION FOR EACH CALENDAR YEAR.**

13 **(4) (I) EARNED LEAVE WITH PAY UNDER THIS SECTION SHALL**
14 **BE CARRIED OVER TO THE FOLLOWING CALENDAR YEAR.**

15 **(II) AN EMPLOYEE'S USE OF LEAVE WITH PAY UNDER THIS**
16 **SECTION MAY NOT EXCEED 40 HOURS FOR EMPLOYEES OF SMALL BUSINESSES**
17 **AND 72 HOURS FOR EMPLOYEES OF ALL OTHER BUSINESSES IN EACH CALENDAR**
18 **YEAR.**

19 **(5) ANY EMPLOYER WITH A PAID LEAVE POLICY, SUCH AS A PAID**
20 **TIME-OFF POLICY, WHO MAKES AVAILABLE AN AMOUNT OF PAID LEAVE**
21 **SUFFICIENT TO MEET THE ACCRUAL REQUIREMENTS OF THIS SECTION THAT**
22 **MAY BE USED FOR THE SAME PURPOSES AND UNDER THE SAME CONDITIONS AS**
23 **LEAVE WITH PAY UNDER THIS SECTION, IS NOT REQUIRED TO PROVIDE**
24 **ADDITIONAL LEAVE WITH PAY.**

25 **(6) EMPLOYEES WHO ARE EXEMPT FROM OVERTIME**
26 **REQUIREMENTS UNDER 29 U.S.C. § 213(A)(1) OF THE FEDERAL FAIR LABOR**
27 **STANDARDS ACT WILL BE ASSUMED TO WORK 40 HOURS IN EACH WORKWEEK**
28 **FOR PURPOSES OF PAID SICK TIME ACCRUAL, UNLESS THEIR NORMAL WORK**
29 **WEEK IS LESS THAN 40 HOURS, IN WHICH CASE PAID SICK TIME ACCRUES BASED**
30 **ON THE NORMAL WORKWEEK.**

31 **(c) An employee of an employer may use leave with pay [for the illness of the**
32 **employee's immediate family]:**

33 **(1) FOR AN EMPLOYEE'S MENTAL OR PHYSICAL ILLNESS, INJURY**
34 **OR HEALTH CONDITION, NEED FOR MEDICAL DIAGNOSIS, CARE, OR TREATMENT**

1 OF A MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH CONDITION, OR NEED
2 FOR PREVENTATIVE MEDICAL CARE;

3 (2) FOR CARE OF AN IMMEDIATE FAMILY MEMBER WITH A
4 MENTAL OR PHYSICAL ILLNESS, INJURY, OR HEALTH CONDITION WHO NEEDS
5 MEDICAL DIAGNOSIS, CARE, OR TREATMENT OF A MENTAL OR PHYSICAL
6 ILLNESS, INJURY, OR HEALTH CONDITION, OR WHO NEEDS PREVENTATIVE
7 MEDICAL CARE;

8 (3) FOR A DEATH IN THE IMMEDIATE FAMILY;

9 (4) FOR THE BIRTH OF THE EMPLOYEE'S CHILD;

10 (5) WHEN A CHILD IS PLACED WITH THE EMPLOYEE FOR
11 ADOPTION;

12 (6) WHEN A CHILD IS PLACED WITH THE EMPLOYEE'S DOMESTIC
13 PARTNER FOR ADOPTION; AND

14 (7) FOR ABSENCE NECESSARY DUE TO ABUSE, PROVIDED THE
15 LEAVE IS TO:

16 (I) SEEK MEDICAL ATTENTION FOR THE EMPLOYEE OR THE
17 EMPLOYEE'S IMMEDIATE FAMILY MEMBER TO RECOVER FROM PHYSICAL OR
18 PSYCHOLOGICAL INJURY OR DISABILITY CAUSED BY ABUSE;

19 (II) OBTAIN SERVICES FROM A VICTIM SERVICES
20 ORGANIZATION;

21 (III) OBTAIN PSYCHOLOGICAL OR OTHER COUNSELING;

22 (IV) SEEK RELOCATION DUE TO THE ABUSE; AND

23 (V) TAKE LEGAL ACTION, INCLUDING PREPARING FOR OR
24 PARTICIPATING IN ANY CIVIL OR CRIMINAL LEGAL PROCEEDING RELATED TO
25 OR RESULTING FROM ABUSE.

26 (d) [(1) An employee of an employer:

27 (i) may only use leave with pay under this section that has
28 been earned; and

29 (ii) who earns more than one type of leave with pay may elect
30 the type and amount of leave with pay to be used under this section.

1 (2) Except as provided in paragraph (3) of this subsection, an employee
2 of an employer who uses leave under this section shall comply with the terms of a
3 collective bargaining agreement or employment policy.

4 (3)] If the terms of a collective bargaining agreement with an employer
5 or an employment policy of an employer provide a leave with pay benefit that is equal
6 to or greater than the benefit provided under this section, the collective bargaining
7 agreement or employment policy prevails.

8 (e) An employer may not discharge, demote, suspend, discipline, or otherwise
9 discriminate against an employee or threaten to take any of these actions against an
10 employee:

11 (1) who exercises rights granted under this section; or

12 (2) who files a complaint, testifies against, or assists in an action
13 brought against the employer for a violation of this section.

14 (f) This section does not affect leave granted under the federal Family and
15 Medical Leave Act of 1993.

16 **(G) THE COMMISSIONER SHALL ADOPT REGULATIONS ESTABLISHING**
17 **PENALTIES FOR A VIOLATION OF THIS SECTION.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2009.