

# SENATE BILL 562

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By: **Senators Garagiola, Kittleman, and Middleton**

Introduced and read first time: February 5, 2009

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment - Flexible Leave**

3 FOR the purpose of altering a certain provision so as to prohibit an employer from  
4 discharging, demoting, suspending, disciplining, or otherwise discriminating or  
5 threatening to take any of those actions against an employee solely because an  
6 employee acts in a certain manner; establishing a certain purpose for certain  
7 provisions of the Flexible Leave Act; clarifying the applicability of certain  
8 provisions of the Flexible Leave Act to include certain employees and employers;  
9 defining, altering, and clarifying certain terms; making certain stylistic  
10 changes; and generally relating to an employee's use of leave with pay to care  
11 for an immediate family member who is ill.

12 BY repealing and reenacting, with amendments,  
13 Article - Labor and Employment  
14 Section 3-802  
15 Annotated Code of Maryland  
16 (2008 Replacement Volume)

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

19 **Article - Labor and Employment**

20 3-802.

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

22 (2) **“CHILD” MEANS AN ADOPTED, BIOLOGICAL, OR FOSTER**  
23 **CHILD, A STEPCHILD, OR A LEGAL WARD WHO IS:**

24 (I) **UNDER THE AGE OF 18 YEARS; OR**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.





1           **(6) “PARENT” MEANS AN ADOPTIVE, BIOLOGICAL, OR FOSTER**  
2 **PARENT, A STEPPARENT, A LEGAL GUARDIAN, OR A PERSON STANDING IN LOCO**  
3 **PARENTIS.**

4           **(b) (1) THIS SECTION APPLIES TO AN EMPLOYEE WHO IS PRIMARILY**  
5 **EMPLOYED IN THE STATE.**

6           **(2) This section applies to an employer that:**

7                   **(I) provides leave with pay under the terms of[**

8                           **(1)] a collective bargaining agreement[;] or**

9                           **[(2)] an employment policy; AND**

10                           **(II) EMPLOYS 15 OR MORE EMPLOYEES FOR EACH WORKING**  
11 **DAY IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR**  
12 **PRECEDING CALENDAR YEAR.**

13           **(C) THE PURPOSE OF THIS SECTION IS TO ALLOW AN EMPLOYEE OF AN**  
14 **EMPLOYER TO USE LEAVE WITH PAY TO CARE FOR AN IMMEDIATE FAMILY**  
15 **MEMBER WHO IS ILL UNDER THE SAME CONDITIONS AND POLICY RULES THAT**  
16 **WOULD APPLY IF THE EMPLOYEE TOOK LEAVE FOR THE EMPLOYEE’S OWN**  
17 **ILLNESS.**

18           **[(c)] (D) An employee of an employer may use leave with pay for the illness**  
19 **of the employee’s immediate family.**

20           **[(d)] (E) (1) An employee of an employer:**

21                           **(i) may only use leave with pay under this section that has**  
22 **been earned; and**

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

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

28                           **(3) If the terms of a collective bargaining agreement with an employer**  
29 **or an employment policy of an employer provide a leave with pay benefit that is equal**  
30 **to or greater than the benefit provided under this section, the collective bargaining**  
31 **agreement or employment policy prevails.**

1            [(e)] (F)     An employer may not discharge, demote, suspend, discipline, or  
2 otherwise discriminate against an employee or threaten to take any of these actions  
3 against an employee **SOLELY BECAUSE THE EMPLOYEE:**

4            (1)     [who exercises rights granted under] **HAS TAKEN LEAVE**  
5 **AUTHORIZED UNDER** this section; [or]

6            (2)     **HAS OPPOSED A PRACTICE MADE UNLAWFUL BY THIS**  
7 **SECTION; OR**

8            [(2)] (3)     [who files a complaint, testifies against, or assists in an  
9 action brought against the employer for a violation of this section] **HAS MADE A**  
10 **CHARGE, TESTIFIED, ASSISTED, OR PARTICIPATED IN AN INVESTIGATION,**  
11 **PROCEEDING, OR HEARING UNDER THIS SECTION.**

12           [(f)] (G)     This section does not [affect leave granted]:

13           (1)     **EXTEND THE MAXIMUM PERIOD OF LEAVE AN EMPLOYEE HAS**  
14 **under the federal Family and Medical Leave Act of 1993; OR**

15           (2)     **LIMIT THE PERIOD OF LEAVE TO WHICH AN EMPLOYEE IS**  
16 **ENTITLED UNDER THE 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, 2009.