

HOUSE BILL 1159

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By: **Delegates Barkley, Arora, Barnes, Braveboy, Frick, Gilchrist, Hucker, Jameson, A. Kelly, Oaks, Reznik, S. Robinson, Waldstreicher, and Zucker**

Introduced and read first time: February 10, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Working Families Flexibility Act**

3 FOR the purpose of authorizing an employee to request certain changes in the
4 employee's terms and conditions of employment; providing for the application of
5 this Act to certain employers; providing for the contents of a certain application;
6 requiring an employee and employer to meet by a certain time under certain
7 circumstances; requiring an employer to give an employee a certain written
8 decision by a certain time; providing for the contents of a certain written
9 decision; authorizing an employee to be accompanied by a certain representative
10 during a certain meeting; authorizing a certain meeting to be postponed under
11 certain circumstances; prohibiting an employer from interfering with,
12 restraining, or denying the exercise of certain rights, or taking certain actions
13 under certain circumstances; authorizing certain employees to bring certain
14 actions under certain circumstances; authorizing a court to award certain
15 amounts to or order certain equitable relief for an employee who is the subject of
16 an employer's violation of this Act; requiring certain employers to keep certain
17 records; providing for the construction of this Act; defining a certain term; and
18 generally relating to flexibility with respect to the terms and conditions of
19 employment.

20 BY adding to

21 Article – Labor and Employment

22 Section 3–712

23 Annotated Code of Maryland

24 (2008 Replacement Volume and 2011 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Labor and Employment**2 **3–712.**

3 **(A) (1) IN THIS SECTION, “EMPLOYER” MEANS A PERSON ENGAGED IN**
4 **A BUSINESS, AN INDUSTRY, A PROFESSION, A TRADE, OR ANY OTHER**
5 **ENTERPRISE THAT HAS AT LEAST 15 EMPLOYEES.**

6 **(2) “EMPLOYER” DOES NOT INCLUDE:**

7 **(I) A PERSON ENGAGED IN A BUSINESS, AN INDUSTRY, A**
8 **PROFESSION, A TRADE, OR ANY OTHER ENTERPRISE THAT IS LICENSED, OR**
9 **APPROVED TO PROVIDE SERVICES, BY THE DEPARTMENT OF HEALTH AND**
10 **MENTAL HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, OR THE**
11 **DEPARTMENT OF JUVENILE SERVICES; OR**

12 **(II) A UNIT OF STATE, COUNTY, OR MUNICIPAL**
13 **GOVERNMENT.**

14 **(B) (1) AN EMPLOYEE MAY APPLY TO THE EMPLOYEE’S EMPLOYER**
15 **FOR A CHANGE IN THE EMPLOYEE’S TERMS AND CONDITIONS OF EMPLOYMENT,**
16 **IF THE CHANGE RELATES TO:**

17 **(I) THE NUMBER OF HOURS THE EMPLOYEE IS REQUIRED**
18 **TO WORK;**

19 **(II) THE TIMES WHEN THE EMPLOYEE IS REQUIRED TO**
20 **WORK; OR**

21 **(III) THE LOCATION WHERE THE EMPLOYEE IS REQUIRED TO**
22 **WORK.**

23 **(2) AN APPLICATION SUBMITTED UNDER THIS SUBSECTION**
24 **SHALL SPECIFY THE CHANGE APPLIED FOR AND THE DATE ON WHICH THE**
25 **EMPLOYEE REQUESTS THAT THE CHANGE BECOME EFFECTIVE.**

26 **(C) (1) THE EMPLOYER AND THE EMPLOYEE SHALL HOLD A MEETING**
27 **TO DISCUSS THE APPLICATION SUBMITTED UNDER SUBSECTION (B) OF THIS**
28 **SECTION WITHIN 14 DAYS AFTER THE DATE THE APPLICATION IS SUBMITTED.**

29 **(2) (I) THE EMPLOYER SHALL GIVE THE EMPLOYEE A WRITTEN**
30 **DECISION REGARDING THE APPLICATION WITHIN 14 DAYS AFTER THE DATE OF**
31 **THE MEETING UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

1 (II) AN EMPLOYER'S DECISION TO REJECT AN APPLICATION
2 SHALL STATE THE GROUNDS FOR THE DECISION.

3 (3) (I) AN EMPLOYEE HAS THE RIGHT TO BE ACCOMPANIED AT
4 A MEETING UNDER PARAGRAPH (1) OF THIS SUBSECTION BY A
5 REPRESENTATIVE OF THE EMPLOYEE'S CHOOSING.

6 (II) IF AN EMPLOYEE'S REPRESENTATIVE IS NOT AVAILABLE
7 TO ATTEND A MEETING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
8 MEETING SHALL BE POSTPONED.

9 (D) AN EMPLOYER MAY NOT:

10 (1) INTERFERE WITH, RESTRAIN, OR DENY THE EXERCISE OF, OR
11 THE ATTEMPT TO EXERCISE, ANY RIGHT PROVIDED AN EMPLOYEE UNDER THIS
12 SECTION; OR

13 (2) TAKE ANY ADVERSE ACTION, AS DESCRIBED UNDER §
14 3-428(B)(2) OF THIS TITLE, AGAINST ANY EMPLOYEE, OR ANY PERSON
15 ASSISTING AN EMPLOYEE, EXERCISING ANY RIGHT UNDER THIS SECTION.

16 (E) AN EMPLOYEE MAY BRING AN ACTION AGAINST AN EMPLOYER THAT
17 VIOLATES THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION.

18 (F) IF A COURT FINDS THAT AN EMPLOYER HAS VIOLATED THE
19 PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE COURT MAY:

20 (1) AWARD AN AMOUNT OF NOT LESS THAN \$500 BUT NOT MORE
21 THAN \$1,000 TO EACH EMPLOYEE WHO WAS A SUBJECT OF THE EMPLOYER'S
22 VIOLATION; OR

23 (2) ORDER EQUITABLE RELIEF, INCLUDING:

24 (I) EMPLOYMENT;

25 (II) REINSTATEMENT;

26 (III) PROMOTION;

27 (IV) BACK PAY; OR

1 **(V) A CHANGE IN THE TERMS AND CONDITIONS OF**
2 **EMPLOYMENT.**

3 **(G) AN EMPLOYER SHALL MAKE, KEEP, AND PRESERVE RECORDS**
4 **RELATING TO THE EMPLOYER'S COMPLIANCE WITH THIS SECTION.**

5 **(H) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO DIMINISH THE**
6 **RIGHTS, PRIVILEGES, OR REMEDIES OF ANY EMPLOYEE UNDER FEDERAL OR**
7 **STATE LAW, OR UNDER A COLLECTIVE BARGAINING AGREEMENT.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2012.