



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3120

Introduced 1/11/2022, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Support Through Loss Act. Requires an employer to grant to each employee 24 hours of paid leave time on the employee's first workday of each calendar year. Provides that the employee shall use the paid leave time as needed during that calendar year for either (i) an absence resulting from a pregnancy loss; an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure; a failed adoption match or an adoption that is not finalized because it is contested by another party; a failed surrogacy arrangement; or a diagnosis or event that impacts pregnancy or fertility; or (ii) an absence to care for a spouse or domestic partner who experiences a circumstance described in item (i). Requires paid leave time to be provided upon the oral or written request of an employee. Provides that any paid leave time granted shall not carry over from one calendar year to the next. Provides that any employer with a paid leave policy that is sufficient to meet the requirements of the Act shall not be required to grant an employee additional paid leave time in accordance with the Act. Prohibits an employer from requiring the employee to find a replacement employee to cover the hours during which the employee is using paid leave time. Provides that an employer is not required to provide an employee with reimbursement for granted paid leave time that has not been used. Prohibits an employer from retaliating against an employee who uses paid leave time or files a complaint alleging a violation of the Act. Exempts from the requirements of the Act an employer who is subject to the Railway Labor Act, the Railroad Unemployment Insurance Act, the Federal Employers' Liability Act, or other comparable federal law. Provides that the Director of Labor shall administer and enforce the Act. Grants an employee the right to bring an action to recover damages. Grants the Department of Labor rulemaking authority.

LRB102 24118 SPS 33344 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Support Through Loss Act.

6 Section 5. Findings. The General Assembly finds and
7 declares that pregnancy loss is a traumatic and life-altering
8 experience for those who develop pregnancies and their
9 families. 10% to 15% of pregnancies end in miscarriage, with
10 most pregnancy loss happening in the first trimester, before
11 the 12th week of pregnancy. One in 6 women who have a
12 miscarriage or an ectopic pregnancy suffer from long-term
13 post-traumatic stress, with approximately 15% of those who
14 experience pregnancy loss developing severe depression or
15 anxiety to the state of clinical diagnosis. Pregnancy loss not
16 only has physical impacts, but mental and psychosocial
17 implications. The General Assembly further acknowledges the
18 disparities affecting Black individuals, Indigenous
19 individuals, and people of color who often experience nearly
20 twice the rate of pregnancy loss than those of their white
21 counterparts. Individuals need time to process and address
22 their own health needs and the health needs of their partners
23 during the period following a pregnancy loss, an unsuccessful

1 round of intrauterine insemination or of an assisted
2 reproductive technology procedure, a failed adoption
3 arrangement, a failed surrogacy arrangement, or a diagnosis or
4 event that impacts pregnancy or fertility. Providing paid
5 leave time after pregnancy loss is critical for individuals to
6 address both their mental and physical needs.

7 Section 10. Definitions. As used in this Act:

8 "Assisted reproduction" means a method of achieving a
9 pregnancy through an artificial insemination or an embryo
10 transfer and includes gamete and embryo donation. "Assisted
11 reproduction" does not include any pregnancy achieved through
12 sexual intercourse.

13 "Department" means the Department of Labor.

14 "Domestic partner", used with respect to an unmarried
15 employee, includes:

16 (1) the person recognized as the domestic partner of
17 the employee under any domestic partnership or civil union
18 law of a state or political subdivision of a state; and

19 (2) an unmarried adult person who is in a committed,
20 personal relationship with the employee, who is not a
21 domestic partner as described in paragraph (1) to or in
22 such a relationship with any other person, and who is
23 designated to the employee's employer by such employee as
24 that employee's domestic partner.

25 "Employee" means any person employed by an employer.

1 "Employee" includes a person employed on a full-time or
2 part-time basis or as a participant in a work assignment as a
3 condition of receipt of federal or State income-based public
4 assistance.

5 "Employer" means any of the following:

- 6 (1) any agency of the State;
7 (2) any unit of local government or school district;
8 or
9 (3) any person that employs at least one employee.

10 "Employment benefits" means all benefits provided or made
11 available to employees by an employer, including group life
12 insurance, health insurance, disability insurance, sick leave,
13 annual leave, educational benefits, and pensions, regardless
14 of whether such benefits are provided by a practice or written
15 policy of an employer.

16 "Paid leave time" means an increment of compensated leave
17 that can be granted to an employee for use during an absence
18 from employment for any reason described in Section 15.

19 Section 15. Paid leave time. An employer shall grant to
20 each employee 24 hours of paid leave time on the employee's
21 first workday of each calendar year. The employee shall use
22 the paid leave time as needed during that calendar year for
23 either of the following:

- 24 (1) An absence resulting from:
25 (A) a pregnancy loss;

1 (B) an unsuccessful round of intrauterine
2 insemination or of an assisted reproductive technology
3 procedure;

4 (C) a failed adoption match or an adoption that is
5 not finalized because it is contested by another
6 party;

7 (D) a failed surrogacy arrangement; or

8 (E) a diagnosis or event that impacts pregnancy or
9 fertility.

10 (2) An absence to care for a spouse or domestic
11 partner who experiences a circumstance described in
12 paragraph (1) of this Section.

13 Section 20. Procedures. Paid leave time shall be provided
14 upon the oral or written request of an employee. Such request
15 shall:

16 (1) include the expected duration of the period of
17 such time; and

18 (2) be provided as soon as practicable after the
19 employee is aware of the need for such period.

20 Section 25. Carryover. Paid leave time granted under this
21 Act shall not carry over from one calendar year to the next.

22 Section 30. Existing employment benefits. Any employer
23 with a paid leave policy who makes available an amount of paid

1 leave that is sufficient to meet the requirements of this Act
2 and that is made available for all stated reasons and under all
3 stated conditions that are the same as the reasons and
4 conditions outlined in Section 15 shall not be required to
5 grant an employee additional paid leave time under this Act.

6 Section 35. Prohibition. An employer may not require, as
7 a condition of providing paid leave time to an employee under
8 this Act, that the employee search for or find a replacement
9 employee to cover the hours during which the employee is using
10 paid leave time.

11 Section 40. Limitations. Nothing in this Act shall be
12 construed as requiring financial or other reimbursement to an
13 employee from an employer upon the employee's termination,
14 resignation, retirement, or other separation from employment
15 for granted paid leave time that has not been used.

16 Section 45. Retaliation prohibited. An employer shall not
17 deny an employee the right to use paid leave time in accordance
18 with this Act or discharge, threaten to discharge, demote,
19 suspend, or in any manner discriminate against an employee for
20 using paid leave time, attempting to exercise the right to use
21 paid leave time, filing a complaint with the Illinois
22 Department of Labor or alleging a violation of this Act,
23 cooperating in an investigation or prosecution of an alleged

1 violation of this Act, or opposing any policy or practice or
2 act that is prohibited by this Act. Nothing in this Section
3 prohibits an employer from applying the terms and conditions
4 set forth in the employment benefit plan or paid time off
5 policy applicable to paid leave time.

6 Section 50. Employments exempted from coverage.

7 (a) This Act does not apply to an employee of an employer
8 subject to the provisions of Title II of the Railway Labor Act
9 (45 U.S.C. 181 et seq.) or to an employer or employee as
10 defined in either the federal Railroad Unemployment Insurance
11 Act (45 U.S.C. 351 et seq.) or the Federal Employers'
12 Liability Act (45 U.S.C. 51-60), or other comparable federal
13 law.

14 (b) Nothing in this Act shall be construed to invalidate,
15 diminish, or otherwise interfere with any collective
16 bargaining agreement nor shall it be construed to invalidate,
17 diminish, or otherwise interfere with any party's power to
18 collectively bargain such an agreement.

19 (c) This Act does not apply to any other employment
20 expressly exempted under rules adopted by the Department as
21 necessary to implement this Act in accordance with applicable
22 State and federal law.

23 Section 55. Enforcement.

24 (a) Department of Labor.

1 (1) The Director or his or her authorized
2 representative shall administer and enforce the provisions
3 of this Act. Any employee or a representative of employees
4 who believes his or her rights under this Act have been
5 violated may, within 3 years after the alleged violation
6 occurs, file a complaint with the Department requesting a
7 review of the alleged violation. A copy of the complaint
8 shall be sent to the person who allegedly committed the
9 violation, who shall be the respondent. Upon receipt of a
10 complaint, the Director shall cause such investigation to
11 be made as he or she deems appropriate. The investigation
12 shall provide an opportunity for a public hearing at the
13 request of any party to the review to enable the parties to
14 present information relating to the alleged allegation.
15 The parties shall be given written notice of the time and
16 place of the hearing at least 7 days before the hearing.
17 Upon receiving the report of the investigation, the
18 Director shall make findings of fact. If the Director
19 finds that a violation did occur, he or she shall issue a
20 decision incorporating his or her findings and requiring
21 the party committing the violation to take such
22 affirmative action to abate the violation as the Director
23 deems appropriate, including:

24 (A) damages equal to the amount of wages, salary,
25 employment benefits, public assistance, or other
26 compensation denied or lost to such individual by

1 reason of the violation, and the interest on that
2 amount calculated at the prevailing rate;

3 (B) such equitable relief as may be appropriate,
4 including, but not limited to, hiring, reinstatement,
5 promotion, and reasonable accommodations; and

6 (C) reasonable attorney's fees, reasonable expert
7 witness fees, and other costs of the action to be paid
8 by the respondent to a prevailing employee.

9 If the Director finds that there was no violation, he
10 or she shall issue an order denying the complaint. An
11 order issued by the Director under this Section shall be
12 final and subject to judicial review under the
13 Administrative Review Law.

14 (2) The Director shall adopt rules necessary to
15 administer and enforce this Act in accordance with the
16 Illinois Administrative Procedure Act. The Director shall
17 have the powers and the parties shall have the rights
18 provided in the Illinois Administrative Procedure Act for
19 contested cases, including, but not limited to, provisions
20 for depositions, subpoena power and procedures, and
21 discovery and protective order procedures.

22 (b) Refusal to pay damages. Any employer who has been
23 ordered by the Director of Labor or the court to pay damages
24 under this Section and who fails to do so within 30 days after
25 the order is entered is liable to pay a penalty of 1% per
26 calendar day to the employee for each day of delay in paying

1 the damages to the employee.

2 Section 60. Effect on other laws and employment benefits.

3 (a) More protective laws, agreements, programs, and plans.
4 Nothing in this Act shall be construed to supersede any
5 provision of any federal, State, or local law, collective
6 bargaining agreement, or employment benefits program or plan
7 that provides greater paid leave benefits than those provided
8 under this Act.

9 (b) Less protective laws, agreements, programs, and plans.
10 The rights established for employees under this Act shall not
11 be diminished by any local law, collective bargaining
12 agreement, or employment benefits program or plan unless
13 otherwise required by federal or state law.

14 Section 65. Severability. If any provision of this Act or
15 the application of such provision to any person or
16 circumstance is held to be in violation of the United States
17 Constitution or Illinois Constitution, the remainder of the
18 provisions of this Act and the application of those provisions
19 to any person or circumstance shall not be affected.

20 Section 70. Rules. The Department may adopt rules to
21 implement this Act.