



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB4040

Introduced 1/21/2022, by Sen. Mike Simmons

SYNOPSIS AS INTRODUCED:

New Act

Creates the Single Parents' Bill of Rights Act. Provides that an employee who is a single parent may take unpaid leave from work if the employee needs time off to care for a child's needs, tend to a child's education, or perform any duty a single parent may reasonably be responsible for. Provides that an employee shall be entitled to 5 days or 40 hours of unpaid time off per 12-month period. Provides that the employee shall provide the employer with at least 48 hours advance notice of the employee's intention to use the leave, unless providing such notice is not practicable. Creates provisions concerning using existing leave for duties of a single parent; prohibited discriminatory acts; enforcement; and notification.

LRB102 24063 SPS 33283 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 Single
5 Parents' Bill of Rights Act.

6 Section 5. Definitions. As used in this Section:

7 "Department" means the Department of Labor.

8 "Director" means the Director of Labor.

9 "Discriminate" includes not making a reasonable
10 accommodation to the known limitations resulting from
11 circumstances relating to being a single parent.

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

13 "Employer" means any of the following: (1) the State or
14 any agency of the State; (2) any unit of local government or
15 school district; or (3) any person that employs at least one
16 employee.

17 "Reasonable accommodation" may include an adjustment to a
18 job structure, workplace facility, or work requirement in
19 response to the employee's duties as a single parent.

20 "Single parent" means the head of a single parent
21 household who has sole or shared custody or is the guardian of
22 a child or children, including biological children, adoptive
23 children, foster children, grandchildren, and those living at

1 the single parent's residence.

2 Section 10. Entitlement to leave due to duties of a single
3 parent.

4 (a) Leave requirement.

5 (1) Basis. An employee who is a single parent may take
6 unpaid leave from work if the employee needs time off to
7 care for a child's needs, tend to a child's education, or
8 perform any duty a single parent may reasonably be
9 responsible for.

10 (2) Period. An employee shall be entitled to 5 days or
11 40 hours of unpaid time off per 12-month period to be used
12 for the reasons described in paragraph (1).

13 (3) Schedule. Leave described in paragraph (1) may be
14 taken consecutively, intermittently, or on a reduced work
15 schedule.

16 (b) Notice. The employee shall provide the employer with
17 at least 48 hours advance notice of the employee's intention
18 to use the leave, unless providing such notice is not
19 practicable.

20 (c) Certification. The employer may not require the
21 employee to provide certification to the employer that the
22 employee is a single parent.

23 (d) Confidentiality. All information provided to the
24 employer pursuant to subsection (b) shall be retained in the
25 strictest confidence by the employer, except to the extent

1 that disclosure is:

2 (1) requested or consented to in writing by the
3 employee; or

4 (2) otherwise required by applicable federal or State
5 law.

6 (e) Employment and benefits.

7 (1) Restoration to position.

8 (A) In general. Any employee who takes leave under
9 this Section for the intended purpose of the leave
10 shall be entitled, on return from such leave:

11 (i) to be restored by the employer to the
12 position of employment held by the employee when
13 the leave commenced; or

14 (ii) to be restored to an equivalent position
15 with equivalent employment benefits, pay, and
16 other terms and conditions of employment.

17 (B) Loss of benefits. The taking of leave under
18 this Section shall not result in the loss of any
19 employment benefit accrued prior to the date on which
20 the leave commenced.

21 (C) Limitations. Nothing in this subsection shall
22 be construed to entitle any restored employee to:

23 (i) the accrual of any seniority or employment
24 benefits during any period of leave; or

25 (ii) any right, benefit, or position of
26 employment other than any right, benefit, or

1 position to which the employee would have been
2 entitled had the employee not taken the leave.

3 (D) Construction. Nothing in this paragraph shall
4 be construed to prohibit an employer from requiring an
5 employee on leave under this Section to report
6 periodically to the employer on the status and
7 intention of the employee to return to work.

8 (2) Maintenance of health benefits.

9 (A) Coverage. Except as provided in subparagraph
10 (B), during any period that an employee takes leave
11 under this Section, the employer shall maintain
12 coverage for the employee and any family or household
13 member under any group health plan for the duration of
14 such leave at the level and under the conditions
15 coverage would have been provided if the employee had
16 continued in employment continuously for the duration
17 of such leave.

18 (B) Failure to return from leave. The employer may
19 recover the premium that the employer paid for
20 maintaining coverage for the employee and the
21 employee's family or household member under such group
22 health plan during any period of leave under this
23 Section if:

24 (i) the employee fails to return from leave
25 under this Section after the period of leave to
26 which the employee is entitled has expired; and

1 (ii) the employee fails to return to work for
2 a reason other than circumstances beyond the
3 control of the employee.

4 (f) Prohibited acts.

5 (1) Interference with rights.

6 (A) Exercise of rights. It shall be unlawful for
7 any employer to interfere with, restrain, or deny the
8 exercise of or the attempt to exercise any right
9 provided under this Section.

10 (B) Employer discrimination. It shall be unlawful
11 for any employer to discharge or harass any
12 individual, or otherwise discriminate against any
13 individual with respect to compensation, terms,
14 conditions, or privileges of employment of the
15 individual (including retaliation in any form or
16 manner) because the individual:

17 (i) exercised any right provided under this
18 Section; or

19 (ii) opposed any practice made unlawful by
20 this Section.

21 (C) Public agency sanctions. It shall be unlawful
22 for any public agency to deny, reduce, or terminate
23 the benefits of, otherwise sanction, or harass any
24 individual, or otherwise discriminate against any
25 individual with respect to the amount, terms, or
26 conditions of public assistance of the individual

1 (including retaliation in any form or manner) because
2 the individual:

3 (i) exercised any right provided under this
4 Section; or

5 (ii) opposed any practice made unlawful by
6 this Section.

7 (2) Interference with proceedings or inquiries. It
8 shall be unlawful for any person to discharge or in any
9 other manner discriminate against any individual because
10 such individual:

11 (A) has filed any charge, or has instituted or
12 caused to be instituted any proceeding, under or
13 related to this Section;

14 (B) has given, or is about to give, any
15 information in connection with any inquiry or
16 proceeding relating to any right provided under this
17 Section; or

18 (C) has testified, or is about to testify, in any
19 inquiry or proceeding relating to any right provided
20 under this Section.

21 Section 15. Existing leave usable for duties of a single
22 parent. An employee who is entitled to take paid or unpaid
23 leave (including family, medical, sick, annual, personal, or
24 similar leave) from employment, pursuant to federal, State, or
25 local law, a collective bargaining agreement, or an employment

1 benefits program or plan, may elect to substitute any period
2 of such leave for an equivalent period of leave provided under
3 Section 10. The employer may not require the employee to
4 substitute available paid or unpaid leave for leave provided
5 under Section 10.

6 Section 20. Prohibited discriminatory acts. An employer
7 shall not fail to hire, refuse to hire, discharge,
8 constructively discharge, or harass any individual, otherwise
9 discriminate against any individual with respect to the
10 compensation, terms, conditions, or privileges of employment
11 of the individual, or retaliate against an individual in any
12 form or manner, and a public agency shall not deny, reduce, or
13 terminate the benefits of, otherwise sanction, or harass any
14 individual, otherwise discriminate against any individual with
15 respect to the amount, terms, or conditions of public
16 assistance of the individual, or retaliate against an
17 individual in any form or manner, because the individual
18 involved:

19 (1) is a single parent employee;

20 (2) has taken time off to fulfill the duties of a
21 single parent; or

22 (3) has requested an adjustment to a job structure,
23 workplace facility, or work requirement, including a
24 transfer, reassignment, or modified schedule, or leave
25 because the individual is a single parent employee.

1 Section 25. Enforcement.

2 (a) Department of Labor.

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

1 (A) damages equal to the amount of wages, salary,
2 employment benefits, public assistance, or other
3 compensation denied or lost to such individual by
4 reason of the violation, and the interest on that
5 amount calculated at the prevailing rate;

6 (B) such equitable relief as may be appropriate,
7 including, but not limited to, hiring, reinstatement,
8 promotion, and reasonable accommodations; and

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

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

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

25 (3) Intervention. The Attorney General of Illinois may
26 intervene on behalf of the Department if the Department

1 certifies that the case is of general public importance.
2 Upon such intervention the court may award such relief as
3 is authorized to be granted to an employee who has filed a
4 complaint or whose representative has filed a complaint
5 under this Section.

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

12 Section 30. Notification. Every employer covered by this
13 Act shall post and keep posted, in conspicuous places on the
14 premises of the employer where notices to employees are
15 customarily posted, a notice, to be prepared or approved by
16 the Director of Labor, summarizing the requirements of this
17 Act and information pertaining to the filing of a charge. The
18 Director shall furnish copies of summaries and rules to
19 employers upon request without charge. Any employer that fails
20 to post the required notice may not rely on the provisions in
21 subsection (b) of Section 10 to claim that the employee failed
22 to inform the employer that she or he wanted or was eligible
23 for leave under this Act.