



Rep. Laura Faver Dias

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10300HB5294ham001

LRB103 37634 SPS 69906 a

1 AMENDMENT TO HOUSE BILL 5294

2 AMENDMENT NO. _____. Amend House Bill 5294 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Family Neonatal Intensive Care Leave Act.

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

7 "Child" means an employee's son or daughter who is a
8 biological, adopted, or foster child, a stepchild, a legal
9 ward, or a child of a person standing in loco parentis.

10 "Department" means the Department of Labor.

11 "Employee" means eligible employee, as defined by Section
12 101(2) of the federal Family and Medical Leave Act of 1993 (29
13 U.S.C. 2601 et seq.).

14 "Employer" means employer, as defined by Section 101(4) of
15 the federal Family and Medical Leave Act of 1993 (29 U.S.C.
16 2601 et seq.).

1 "Neonatal intensive care unit" or "NICU" means a special
2 care unit that provides medical treatment to premature and
3 critically ill infants.

4 Section 10. Neonatal intensive care family leave.

5 (a) An employee of an employer with 10 or fewer employees
6 shall be entitled to use a maximum of 10 days of unpaid
7 neonatal intensive care leave while a child of the employee is
8 a patient in a neonatal intensive care unit. An employee of an
9 employer with more than 10 employees shall be entitled to use
10 unpaid neonatal intensive care leave for as long as a child of
11 the employee is a patient in a neonatal intensive care unit.

12 (b) An employer shall not require that an employee use
13 leave the employee is entitled to under the Family Medical
14 Leave Act instead of leave the employee is entitled to under
15 this Act.

16 Section 15. Unlawful employer practices.

17 (a) It is unlawful for any employer to take any adverse
18 action against an employee because the employee:

19 (1) exercises rights or attempts to exercise rights
20 under this Act;

21 (2) opposes practices which such employee believes to
22 be in violation of this Act; or

23 (3) supports the exercise of rights of another under
24 this Act.

1 (b) Exercising rights under this Act includes filing an
2 action or instituting or causing to be instituted any
3 proceeding under or related to this Act, providing or agreeing
4 to provide any information in connection with any inquiry or
5 proceeding relating to any right provided under this Act, or
6 testifying to or agreeing to testify in any inquiry or
7 proceeding relating to any right provided under this Act.

8 Section 20. Department responsibilities.

9 (a) The Department shall administer and enforce this Act
10 and adopt rules under the Illinois Administrative Procedure
11 Act for the purpose of this Act. The Department shall have the
12 powers and the parties shall have the rights provided in the
13 Illinois Administrative Procedure Act for contested cases. The
14 Department shall have the power to conduct investigations in
15 connection with the administration and enforcement of this
16 Act, including the power to conduct depositions and discovery
17 and to issue subpoenas. If the Department finds cause to
18 believe that this Act has been violated, the Department shall
19 notify the parties in writing and the matter shall be referred
20 to an administrative law judge to schedule a formal hearing in
21 accordance with hearing procedures established by rule.

22 (b) The Department is authorized to impose civil penalties
23 prescribed in Section 25 in administrative proceedings that
24 comply with the Illinois Administrative Procedure Act and to
25 supervise the payment of the unpaid wages and damages owing to

1 the employee or employees under this Act. The Department may
2 bring any legal action necessary to recover the amount of
3 unpaid wages, damages, and penalties, and the employer shall
4 be required to pay the costs. Any sums recovered by the
5 Department on behalf of an employee under this Act shall be
6 paid to the employee or employees affected. However, 20% of
7 any penalty collected from the employer for a violation of
8 this Act shall be deposited into the Neonatal Intensive Care
9 Leave Fund, a special fund created in the State treasury, and
10 used for the enforcement of this Act.

11 (c) The Attorney General may bring an action to enforce
12 the collection of any civil penalty imposed under this Act.

13 Section 25. Enforcement.

14 (a) An employee who believes his or her rights under this
15 Act or any rule adopted under this Act have been violated may,
16 within 60 days after the date of the last event constituting
17 the alleged violation for which the action is brought, file a
18 complaint with the Department or file a civil action.

19 (b) An employer that violates any provision of this Act or
20 any rule adopted under this Act is subject to a civil penalty
21 for each employee affected as follows:

22 (1) for a first offense, a civil penalty not to exceed
23 \$500; and

24 (2) for a second or subsequent offense, a civil
25 penalty not to exceed \$1,000.

1 (c) A civil action may be brought in the circuit court by
2 an employee to enforce this Act. The circuit court may enjoin
3 any act or practice that violates or may violate this Act and
4 may order any other equitable relief that is necessary and
5 appropriate to redress the violation or to enforce the Act.

6 Section 90. The State Finance Act is amended by adding
7 Section 5.1015 as follows:

8 (30 ILCS 105/5.1015 new)

9 Sec. 5.1015. The Neonatal Intensive Care Leave Fund."