



Rep. Laura Faver Dias

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10300HB5294ham003

LRB103 37634 SPS 71459 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" has the meaning ascribed to that term in
12 Section 2 of the Illinois Wage Payment and Collection Act.

13 "Employer" has the meaning ascribed to that term in
14 Section 2 of the Illinois Wage Payment and Collection Act.

15 "Neonatal intensive care unit" or "NICU" means a special
16 care unit that provides medical treatment to premature and

1 critically ill infants.

2 Section 10. Neonatal intensive care family leave.

3 (a) An employee of an employer with 50 or fewer employees
4 shall be entitled to use a maximum of 10 days of unpaid
5 neonatal intensive care leave while a child of the employee is
6 a patient in a neonatal intensive care unit. An employee of an
7 employer with more than 51 employees shall be entitled to use
8 20 days of unpaid neonatal intensive care leave while a child
9 of the employee is a patient in a neonatal intensive care unit.

10 (b) An employer shall not require that an employee use
11 leave the employee is entitled to under the Family Medical
12 Leave Act or any paid leave available to the employee for any
13 reason instead of leave the employee is entitled to under this
14 Act.

15 (c) An employer shall not require an employee who uses
16 unpaid neonatal intensive care leave to provide a replacement
17 worker.

18 (d) If an employee takes unpaid neonatal intensive care
19 leave under this Section, an employer may require reasonable
20 verification of the employee's child's length of stay in a
21 neonatal intensive care unit. As part of a reasonable
22 verification, an employer shall not request any confidential
23 information protected by the Health Insurance Portability and
24 Accountability Act of 1996 or other law.

1 Section 15. Unlawful employer practices.

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

4 (1) exercises rights or attempts to exercise rights
5 under this Act;

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

8 (3) supports the exercise of rights of another under
9 this Act.

10 (b) Exercising rights under this Act includes filing an
11 action or instituting or causing to be instituted any
12 proceeding under or related to this Act, providing or agreeing
13 to provide any information in connection with any inquiry or
14 proceeding relating to any right provided under this Act, or
15 testifying to or agreeing to testify in any inquiry or
16 proceeding relating to any right provided under this Act.

17 Section 20. Department responsibilities.

18 (a) The Department shall administer and enforce this Act
19 and adopt rules under the Illinois Administrative Procedure
20 Act for the purpose of this Act. The Department shall have the
21 powers and the parties shall have the rights provided in the
22 Illinois Administrative Procedure Act for contested cases. The
23 Department shall have the power to conduct investigations in
24 connection with the administration and enforcement of this
25 Act, including the power to conduct depositions and discovery

1 and to issue subpoenas. If the Department finds cause to
2 believe that this Act has been violated, the Department shall
3 notify the parties in writing and the matter shall be referred
4 to an administrative law judge to schedule a formal hearing in
5 accordance with hearing procedures established by rule.

6 (b) The Department is authorized to impose civil penalties
7 prescribed in Section 25 in administrative proceedings that
8 comply with the Illinois Administrative Procedure Act and to
9 supervise the payment of the unpaid wages and damages owing to
10 the employee or employees under this Act. The Department may
11 bring any legal action necessary to recover the amount of
12 unpaid wages, damages, and penalties, and the employer shall
13 be required to pay the costs. Any sums recovered by the
14 Department on behalf of an employee under this Act shall be
15 paid to the employee or employees affected. However, 20% of
16 any penalty collected from the employer for a violation of
17 this Act shall be deposited into the Neonatal Intensive Care
18 Leave Fund, a special fund created in the State treasury, and
19 used for the enforcement of this Act.

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

22 Section 25. Enforcement.

23 (a) An employee who believes his or her rights under this
24 Act or any rule adopted under this Act have been violated may,
25 within 60 days after the date of the last event constituting

1 the alleged violation for which the action is brought, file a
2 complaint with the Department or file a civil action.

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

6 (1) for a first offense, a civil penalty not to exceed
7 \$500; and

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

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

15 Section 90. The State Finance Act is amended by adding
16 Section 5.1015 as follows:

17 (30 ILCS 105/5.1015 new)

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