



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1190

Introduced 1/30/2013, by Sen. Toi W. Hutchinson

SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Family Care Provider Act. Provides that an employer must provide up to 12 weeks of unpaid family medical leave to an employee during any 12-month period for one or more of these purposes: the birth or adoption of a grandchild in order for the employee to care for such grandchild; because of the placement of a grandchild with the employee for adoption or foster care; or in order for the employee to care for a grandchild if such grandchild has a serious health condition or the employee to care for a grandparent if such grandparent has a serious health condition. Contains provisions concerning employee benefits and prohibited acts. Requires the Illinois Department of Labor to enforce the Act and authorizes an employee to file a civil action for enforcement. Effective immediately.

LRB098 06898 JLS 36955 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

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 Family Care Provider Act.

6 Section 5. Findings and purpose.

7 (a) Findings. The General Assembly finds that:

8 (1) the number of households in Illinois in which
9 working grandparents have primary responsibility for the
10 care of grandchildren is significant; currently, almost
11 100,000 grandparents are responsible for the care of
12 grandchildren living with them, and of these, 68% are under
13 the age of 60;

14 (2) in Illinois, over 230,000 children under the age of
15 18 live in homes with grandparents as the householders;

16 (3) the number of households in which grandchildren
17 have primary responsibility for the care of grandparents
18 and other family members is significant; in fact,
19 grandchildren comprise 8% of informal caregivers
20 nationally;

21 (4) it is important for the family unit that
22 grandparents and grandchildren be able to participate in
23 the care of family members who have serious health

1 conditions; and

2 (5) the lack of employment policies to accommodate
3 working caregivers, including employees caring for
4 grandchildren or grandparents, can force individuals to
5 choose between job security and caregiving
6 responsibilities.

7 (b) Purpose. It is the purpose of this Act that all
8 employers required to comply with the Family and Medical Leave
9 Act of 1993, 29 U.S.C 2601, et seq., shall include grandparents
10 and grandchildren as "eligible employees" for leave for the
11 birth or adoption of a grandchild in order for a grandparent to
12 care for such grandchild; because of the placement of a
13 grandchild with the grandparent for adoption or foster care;
14 and in order for the grandparent to care for the grandchild if
15 such grandchild has a serious health condition or the
16 grandchild to care for the grandparent if such grandparent has
17 a serious health condition.

18 Section 10. Definitions. In this Act:

19 "Eligible employee" means any person who may be permitted,
20 required, or directed by an employer in consideration of direct
21 or indirect gain or profit to engage in any employment.

22 "Employee" does include an independent contractor.

23 "Employee" includes an employee of a covered employer who
24 has been employed by the same employer for at least 12 months
25 and has been employed for at least 1,250 hours of service

1 during the 12-month period immediately preceding the
2 commencement of the leave.

3 "Employee benefits" means all benefits, other than salary
4 and wages, provided or made available to employees by an
5 employer and includes group life insurance, health insurance,
6 disability insurance, and pensions, regardless of whether
7 benefits are provided by a policy or practice of an employer.

8 "Employer" means (1) any person, partnership, corporation,
9 association, or other business entity; and (2) the State of
10 Illinois, municipalities, and other units of local government.

11 "Grandparent" means a biological, adopted, or foster
12 grandparent or step grandparent of an employee.

13 "Grandchild" means a biological, adopted, or foster
14 grandchild or step grandchild of an employee who is:

15 (a) under 18 years of age; or

16 (b) 18 years of age or older and incapable of self-care
17 because of a mental or physical disability.

18 Section 15. Family leave requirement.

19 (a) Subject to the conditions set forth in this Section, an
20 employer that employs more than 50 employees shall provide up
21 to 12 weeks of unpaid family medical leave to an employee
22 during any 12-month period for one or more of the following:
23 the birth or adoption of a grandchild in order for the employee
24 to care for such grandchild; because of the placement of a
25 grandchild with the employee for adoption or foster care; or in

1 order for the employee to care for a grandchild if such
2 grandchild has a serious health condition or the employee to
3 care for a grandparent if such grandparent has a serious health
4 condition.

5 (b) The employee shall give at least 14 days' notice of the
6 intended date upon which the family medical leave will commence
7 if the leave will consist of 5 or more consecutive work days.
8 When able, the employee shall consult with the employer to
9 schedule the leave so as to not unduly disrupt the operations
10 of the employer. Employees taking family medical leave for less
11 than 5 consecutive days shall give the employer such advanced
12 notice as is practical.

13 (c) An employee shall not take leave as provided under this
14 Act unless he or she has exhausted all accrued vacation leave,
15 personal leave, compensatory leave, and any other leave that
16 may be granted to the employee, except sick leave and
17 disability leave.

18 Section 20. Employee benefits protection.

19 (a) Any employee who exercises the right to family medical
20 leave under this Act, upon expiration of the leave, shall be
21 entitled to be restored by the employer to the position held by
22 the employee when the leave commenced or to a position with
23 equivalent seniority status, employee benefits, pay, and other
24 terms and conditions of employment. This Section does not apply
25 if the employer proves that the employee was not restored as

1 provided in this Section because of conditions unrelated to the
2 employee's exercise of rights under this Act.

3 (b) During any family medical leave taken under this Act,
4 the employer shall continue employee benefits at the employer's
5 expense.

6 Section 25. Effect on existing employee benefits.

7 (a) Taking family medical leave under this Act shall not
8 result in the loss of any employee benefit accrued before the
9 date on which the leave commenced.

10 (b) Nothing in this Act shall be construed to affect an
11 employer's obligation to comply with any collective bargaining
12 agreement or employee benefit plan that provides greater leave
13 rights to employees than the rights provided under this Act.

14 (c) The family medical leave rights provided under this Act
15 shall not be diminished by any collective bargaining agreement
16 or employee benefit plan.

17 (d) Nothing in this Act shall be construed to affect or
18 diminish the contract rights or seniority status of any other
19 employee of any employer covered under this Act.

20 Section 30. Prohibited acts.

21 (a) An employer shall not interfere with, restrain, or deny
22 the exercise or the attempt to exercise any right provided
23 under this Act.

24 (b) An employer shall not discharge, fine, suspend, expel,

1 discipline, or in any other manner discriminate against any
2 employee that exercises any right provided under this Act.

3 (c) An employer shall not discharge, fine, suspend, expel,
4 discipline, or in any other manner discriminate against any
5 employee for opposing any practice made unlawful by this Act

6 Section 35. Enforcement. This Act shall be enforced by the
7 Illinois Department of Labor. A civil action may be brought in
8 the circuit court having jurisdiction by an employee to enforce
9 this Act. The circuit court may enjoin any act or practice that
10 violates or may violate this Act and may order any other
11 equitable relief that is necessary and appropriate to redress
12 the violation or to enforce this Act.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.