



Sen. Napoleon Harris, III

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LRB099 09055 JLS 32747 a

1 AMENDMENT TO SENATE BILL 1238

2 AMENDMENT NO. _____. Amend Senate Bill 1238 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Family Care Provider Act.

6 Section 5. Findings. The General Assembly finds that:

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

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

15 (3) the number of households in which grandchildren
16 have primary responsibility for the care of grandparents

1 and other family members is significant; in fact,
2 grandchildren comprise 8% of informal caregivers
3 nationally;

4 (4) it is important for the family unit that
5 grandparents and grandchildren be able to participate in
6 the care of family members who have serious health
7 conditions; and

8 (5) the lack of employment policies to accommodate
9 working caregivers, including employees caring for
10 grandchildren or grandparents, can force individuals to
11 choose between job security and caregiving
12 responsibilities.

13 Section 10. Definitions. In this Act:

14 "Eligible employee" has the meaning ascribed to that term
15 in the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et
16 seq. and is a person standing in loco parentis or acting as a
17 caretaker of a grandparent who was in loco parentis of the
18 employee when the employee was a minor.

19 "Employer" has the meaning ascribed to that term in the
20 Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.

21 "Grandchild" means a biological, adopted, or step
22 grandchild of an eligible employee and is under age 18 or age
23 18 or older and incapable of self-care because of a mental or
24 physical disability.

25 "Grandparent" means a biological, adopted, or step

1 grandparent of an eligible employee.

2 "Serious health condition" has the meaning ascribed to that
3 term in the Family and Medical Leave Act of 1993, 29 U.S.C.
4 2601 et seq.

5 Section 15. Family leave requirement.

6 (a) Subject to the conditions set forth in this Section, an
7 eligible employee is entitled to receive and an employer shall
8 provide up to 12 weeks of unpaid family medical leave to an
9 eligible employee during any 12-month period for the eligible
10 employee to care for a grandchild if such grandchild has a
11 serious health condition or for the eligible employee to care
12 for a grandparent if the grandparent has a serious health
13 condition.

14 (b) An employee is not entitled to receive and an employer
15 is not required to provide more than 12 weeks of unpaid family
16 medical leave in any 12-month period under this Act. For
17 purposes of this Act, unpaid family medical leave granted
18 pursuant to any other law shall be deemed to be unpaid family
19 medical leave granted under this Act.

20 Section 20. Notification. An employee must comply with the
21 employer's usual and customary procedural requirements for
22 giving notice of a request for leave, provided that those
23 notice requirements are consistent with the Family and Medical
24 Leave Act of 1993, 29 U.S.C. 2601 et seq.

1 Section 25. Certification. An employer may require that an
2 employee's leave to care for a grandchild or grandparent, with
3 a serious health condition, be supported by a certification
4 issued by the health care provider of the employee's grandchild
5 or grandparent. Certification under this Section shall comply
6 with the certification content and requirements provided in 29
7 C.F.R. 825.305 et seq.

8 Section 30. Administration of Act and rulemaking
9 authority.

10 (a) The Illinois Department of Labor shall investigate any
11 alleged violations of this Act. If the Department finds that a
12 violation has occurred, the Director of Labor may impose the
13 following civil penalties:

14 (1) For the first violation, the Director shall issue a
15 written warning to the employer that includes notice
16 regarding penalties for subsequent violations and the
17 employer shall have 30 days to remedy the violation;

18 (2) For the second violation, or if the first violation
19 is not remedied within 30 days of notice by the Department,
20 the Director of Labor may impose a civil penalty of up to
21 \$500;

22 (3) For the third violation, or if the first violation
23 is not remedied within 60 days of notice by the Department,
24 the Director of Labor may impose an additional civil

1 penalty of up to \$1,500;

2 (4) For subsequent violations, or if the first
3 violation is not remedied within 90 days of notice by the
4 Department, the Director of Labor may impose an additional
5 civil penalty of up to \$1,500 for every 30 days that passes
6 thereafter without compliance.

7 (b) Penalties under this Section may be assessed by the
8 Department and recovered in a civil action brought by the
9 Department in any circuit court or in any administrative
10 adjudicative proceeding under this Act. In any such civil
11 action or administrative adjudicative proceeding under this
12 Act, the Department shall be represented by the Attorney
13 General.

14 (c) The Department may adopt rules necessary to administer
15 this Act and may establish an administrative procedure to
16 adjudicate claims and issue final and binding decisions subject
17 to the Administrative Review Law.

18 (d) The Department shall dismiss any complaints that are
19 being adjudicated in another administrative or judicial venue.

20 Section 35. Interpretation. All general requirements for
21 leave, employment, benefits, and other provisions shall be
22 interpreted in a manner consistent with the Family and Medical
23 Leave Act of 1993, 29 U.S.C. 2601 et seq.

24 Section 99. Effective date. This Act takes effect January

1 1, 2016.".