



HOUSE BILL No. 4047

February 2, 1993, Introduced by Rep. Joe Young, Jr. and referred to the Committee on Labor.

A bill to provide for parental leave for certain employees; to provide for the powers and duties of employers, employees, the attorney general, and the department of labor; and to provide for penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "parental leave act".

3 Sec. 2. As used in this act:

4 (a) "Department" means the department of labor.

5 (b) "Dependent" means any of the following:

6 (i) A child, including a stepchild, adopted child, grand-
7 child, or any other child for whom the employee is a legal guard-
8 ian, if that child is less than 19 years of age.

9 (ii) An unmarried adult child of the employee if that child
10 is incapable of self-support due to a mental impairment or a

1 physical handicap, and if the child is dependent on the employee
2 for care, support, and maintenance.

3 (iii) The spouse of the employee.

4 (iv) The legal parent of the employee if that parent either
5 is more than 65 years of age or is dependent on the employee for
6 more than 1/2 of his or her financial support.

7 (c) "Employee" means an individual who is employed by an
8 employer on a full-time or regular part-time basis for not less
9 than 1 year.

10 (d) "Employer" means an individual, partnership, corpora-
11 tion, or association, including this state and a political subdi-
12 vision, agency, and instrumentality of the state, that employs 2
13 or more employees at any 1 time within a calendar year.

14 (e) "Employment benefits" means all benefits and policies
15 provided or made available to employees by an employer.
16 Employment benefits includes, but is not limited to, health care
17 benefits, disability benefits, sick leave, annual leave, educa-
18 tional benefits, and pensions.

19 (f) "Parental leave" means leave taken for 1 of the follow-
20 ing purposes:

21 (i) The birth and care of a child of the employee.

22 (ii) The adoption and care of a child of the employee.

23 (iii) The serious illness and care of a dependent of the
24 employee.

25 (g) "Reduced leave schedule" means leave scheduled for fewer
26 than 5 workdays per week or fewer than the employee's usual
27 number of hours per workday.

1 (h) "Serious illness" means an illness, injury, or condition
2 that meets 1 or both of the following:

3 (i) Is life-threatening or catastrophic.

4 (ii) Requires daily supervision for not less than 1 month
5 pursuant to the instructions of or plan of treatment prescribed
6 by a health care provider.

7 Sec. 3. (1) Except as provided in subsection (2) and sec-
8 tion 5, upon notice to his or her employer, each employee is
9 entitled in any 2-year period to an immediate paid parental leave
10 of not fewer than 60 working days. This leave need not be taken
11 consecutively.

12 (2) An employee who takes a paid parental leave shall not
13 work for compensation, monetary or otherwise, for any other
14 person during the time that he or she is on the leave.

15 (3) An employer may substitute an employer-sponsored dis-
16 ability insurance policy or disability benefit plan for all or
17 part of the 60-day paid parental leave.

18 Sec. 4. Except as provided in section 5, upon notice to his
19 or her employer, each employee, in addition to a paid parental
20 leave, is entitled in any 2-year period to an unpaid parental
21 leave of not fewer than 120 working days. This leave need not be
22 taken consecutively.

23 Sec. 5. Each employee who takes a parental leave shall
24 submit to the employer, within 1 week after commencement of
25 leave, written verification of the birth, adoption, or serious
26 illness, as applicable, of the employee's child or other
27 dependent.

1 Sec. 6. Each employee may take a parental leave on a reduced
2 leave schedule. However, the total time period over which the
3 reduced leave schedule is spread shall not exceed 180 working
4 days.

5 Sec. 7. (1) During any parental leave taken under this act,
6 the employer shall maintain any existing employment benefits of
7 the employee as if he or she were working continuously from the
8 time he or she commenced the leave until the time of his or her
9 restoration to employment pursuant to section 8. Parental leave
10 shall not be considered for any purpose a break in the employee's
11 service.

12 (2) During an unpaid parental leave, an employee shall pay
13 to the employer on a monthly basis or more often his or her
14 share, if any, of existing employment benefit costs.

15 Sec. 8. Each employee who exercises his or her right to a
16 parental leave, immediately upon expiration of the leave, shall
17 be restored to employment by the employer either to the position
18 held by the employee when the leave commenced or to an equivalent
19 position of like seniority, status, employment benefits, pay, and
20 other terms and conditions of employment including, but not
21 limited to, all rights and benefits guaranteed by any applicable
22 collective bargaining agreement.

23 Sec. 9. An employer shall not suspend, discharge, or in any
24 other manner discipline or discriminate against an employee
25 because the employee exercised a right provided by this act, has
26 filed a complaint or has instituted or caused to be instituted
27 any proceeding under this act, or has testified or is about to

1 testify in an investigation or proceeding or has given or is
2 about to give any information connected to an investigation or
3 proceeding relating to this act.

4 Sec. 10. (1) At any time within 1 year after a violation of
5 this act, an aggrieved employee or class of employees may do
6 either of the following:

7 (a) Bring a civil action for relief as provided in
8 section 11.

9 (b) File a complaint with the department which shall inves-
10 tigate the complaint. If the department determines there is rea-
11 sonable cause to believe the employer has violated this act and
12 the department subsequently is unable to obtain voluntary compli-
13 ance by the employer within a reasonable period of time, the
14 attorney general, at the request of the department, shall bring a
15 civil action for relief as provided in section 11.

16 (2) A contract or agreement between an employer and an
17 employee is not a bar to an action described in subsection (1).

18 Sec. 11. (1) A person alleging a violation of this act may
19 bring a civil action in the circuit court for the county of
20 Ingham, for the county in which the alleged violation occurred,
21 or for the county in which the employer against whom the civil
22 complaint is filed resides or has his or her principal place of
23 business.

24 (2) An employer who violates this act is liable to the
25 employee or class of employees affected in an amount equal to any
26 wages, salary, employment benefits, or other compensation
27 determined by the court to have been denied or lost to the

1 employee or class of employees by reason of the violation, plus
2 interest on the total monetary damages calculated at the prevail-
3 ing rate, together with costs and reasonable attorney's fees as
4 may be allowed by the court.

5 (3) If, in the judgment of the court, the violation of this
6 act was intentional, the court shall award an additional amount
7 equal to 3 times the total amount of monetary damages calculated
8 pursuant to subsection (2).

9 (4) Instead of seeking a civil penalty otherwise applicable
10 to an employer under this section, a person alleging a violation
11 of this act may bring an action against the employer for equita-
12 ble relief to compel the employer to comply with this act or the
13 rules promulgated under this act.

14 Sec. 12. To determine whether an employer has violated this
15 act or a rule promulgated under this act, the department, if it
16 has reasonable cause to believe that a violation has occurred,
17 may conduct an investigation. In connection with the investiga-
18 tion, the department may enter any places, inspect any books and
19 records, and question any persons the department considers
20 necessary.

21 Sec. 13. The department shall promulgate as necessary rules
22 to implement this act pursuant to the administrative procedures
23 act of 1969, Act No. 306 of the Public Acts of 1969, being
24 sections 24.201 to 24.328 of the Michigan Compiled Laws.