



# SENATE BILL No. 404

March 16, 1995, Introduced by Senators YOUNG, A. SMITH and V. SMITH and referred to the Committee on Human Resources, Labor and Veterans Affairs.

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) Subject to section 5, upon notice to his or her  
8 employer, each employee is entitled in any 2-year period to an  
9 immediate paid parental leave of not fewer than 60 working days.  
10 This leave need not be taken consecutively.

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

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

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

22 Sec. 5. Each employee who takes a parental leave consisting  
23 of 2 or more consecutive weeks shall submit to the employer,  
24 within 1 week after commencement of leave, written verification  
25 of the birth, adoption, or serious illness, as applicable, of the  
26 employee's child or other 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 remedy 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.