

HOUSE BILL No. 5632

January 17, 2008, Introduced by Rep. Calley and referred to the Committee on Military and Veterans Affairs and Homeland Security.

A bill to provide for family military leave from employment for certain relatives of an individual called to active military service; to prohibit retaliation; and to prescribe remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 3. As used in this act:

4 (a) "Active duty" does not include active duty for training.

5 (b) "Armed forces of the United States" means all components,
6 including reserve components, of the United States army, navy, air
7 force, marine corps, and coast guard.

8 (c) "Benefits" means the employment benefits, other than
9 salary or wages, that the employer normally provides or makes

1 available to employees, such as medical insurance, disability
2 insurance, life insurance, pension plan, or retirement plan.

3 (d) "Employee" means an individual who works for an employer
4 under an express or implied contract of hire, but does not include
5 an independent contractor.

6 (e) "Employer" means an individual, partnership, corporation,
7 association, or other business entity that employs 15 or more
8 employees, and includes the state and a unit of local government.

9 (f) "Family military leave" means time off from work to ease
10 the transition of a family member who is called into duty in the
11 armed forces of the United States.

12 Sec. 5. An employer shall allow up to 10 days of family
13 military leave to an employee if all of the following conditions
14 are met:

15 (a) The employee has been employed by the employer for at
16 least 12 months and for at least 1,250 hours during the immediately
17 preceding 12 months.

18 (b) The employee is the parent or spouse of an individual who
19 is a member of 1 of the reserve components of the armed forces of
20 the United States and who is called into active duty in the armed
21 forces of the United States for a period longer than 30 days.

22 (c) The employee gives at least 14 days' notice to the
23 employer of dates that the employee intends to take family military
24 leave.

25 (d) The dates of the requested family military leave fall
26 within 2 weeks before or 1 week after the employee's spouse's or
27 child's deployment date.

1 (e) The employee has exhausted all accrued leave and
2 compensatory time available to the employee, other than sick and
3 disability leave.

4 Sec. 7. The employer may require an employee requesting family
5 military leave to provide certification from the proper military
6 authority to verify the employee's eligibility.

7 Sec. 9. (1) An employer shall continue to provide existing
8 fringe benefits to the employee during family military leave, and
9 the employee is responsible for the same proportion of the cost of
10 those benefits as the employee paid before the leave period. The
11 employer is not required to pay salary or wages to the employee
12 while on family military leave.

13 (2) Upon expiration of the employee's family military leave,
14 the employer shall restore the employee to his or her position or
15 to a position with at least equivalent seniority, benefits, pay,
16 and other terms and conditions of employment.

17 Sec. 11. (1) An employer shall not interfere with, restrain,
18 or deny the exercise or attempted exercise of a right provided
19 under this act.

20 (2) An employer shall not discharge, fine, suspend, expel,
21 discipline, or discriminate against an employee with respect to any
22 term or condition of employment because of the employee's actual or
23 potential exercise, or support for another employee's exercise, of
24 any right under this act. This subsection does not prevent an
25 employer from taking employment action that is independent of the
26 exercise of a right under this act.

27 (3) An employer shall not deprive an employee who takes family

1 military leave of any employment benefit that accrued before the
2 date the family military leave begins.

3 Sec. 13. This act does not affect an employer's obligation to
4 comply with any collective bargaining agreement or employee benefit
5 plan that provides greater leave rights to employees than provided
6 under this act.

7 Sec. 15. (1) An employer shall not require an employee to
8 waive rights under this act.

9 (2) An employee's rights under this act cannot be waived or
10 diminished under a term in a collective bargaining agreement or
11 employee benefit plan that takes effect after the effective date of
12 this act.

13 Sec. 17. An individual aggrieved by a violation of this act
14 may bring an action in the circuit court to enjoin the violation or
15 for any other relief necessary to secure a right under this act.