

1 H.351

2 Introduced by Representatives Kornheiser of Brattleboro and Scheu of

3 Middlebury

4 Referred to Committee on

5 Date:

6 Subject: Labor; employment practices; parental and family leave

7 Statement of purpose of bill as introduced: This bill proposes to amend the
8 Parental and Family Leave Act to make it applicable to additional employers,
9 to permit employees to care for additional types of family members, and by
10 making various other amendments.

11 An act relating to making various amendments to the Parental and Family
12 Leave Act

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 21 V.S.A. § 471 is amended to read:

15 § 471. DEFINITIONS

16 As used in this subchapter:

17 (1) "Employer" means ~~an individual, organization, or governmental~~
18 ~~body, partnership, association, corporation, legal representative, trustee,~~
19 ~~receiver, trustee in bankruptcy, and any common carrier by rail, motor, water,~~
20 ~~air, or express company doing business in or operating within this State which~~

1 ~~for the purposes of parental leave~~ a person who employs 10 or more
2 individuals who are employed for an average of at least 30 hours per week
3 during a year ~~and for the purposes of family leave employs 15 or more~~
4 ~~individuals for an average of at least 30 hours per week during a year.~~

5 * * *

6 (3) "Family leave" means a leave of absence from employment by an
7 employee who works for an employer ~~which employs 15 or more individuals~~
8 ~~who are employed for an average of at least 30 hours per week during the year~~
9 for one of the following reasons:

10 (A) the serious illness of the employee; ~~or~~

11 (B) the serious illness of the employee's ~~child, stepchild or ward who~~
12 ~~lives with the employee, foster child, parent, spouse, or parent of the~~
13 ~~employee's spouse.~~ family member;

14 (4) ~~"Parental leave" means a leave of absence from employment by an~~
15 ~~employee who works for an employer which employs 10 or more individuals~~
16 ~~who are employed for an average of at least 30 hours per week during the year~~
17 ~~for one of the following reasons:~~

18 (C) the employee's pregnancy;

19 ~~(A)~~(D) the birth of the employee's child; or

20 ~~(B)~~(E) the initial placement of a child ~~to~~ 18 years of age or younger
21 with the employee for the purpose of adoption.

1 the date the leave is expected to commence and the estimated duration of the
2 leave.

3 (2) In the case of the adoption or birth of a child, an employer shall not
4 require that notice be given more than six weeks prior to the anticipated
5 commencement of the leave.

6 (3) In the case of an unanticipated serious illness or premature birth, the
7 employee shall give the employer notice of the commencement of the leave as
8 soon as practicable.

9 (4) In the case of serious illness of the employee or a member of the
10 employee's family, an employer may require certification from a physician to
11 verify the condition and the amount and necessity for the leave requested.

12 (5) An employee may return from leave earlier than estimated upon
13 approval of the employer.

14 (6) An employee shall provide reasonable notice to the employer of his
15 or her need to extend the leave to the extent provided by this chapter.

16 * * *

17 (h) Except for serious illness of the employee, an employee who does not
18 return to employment with the employer who provided the family leave shall
19 return to the employer the value of any compensation paid to or on behalf of
20 the employee during the leave, except payments for accrued sick leave or

1 vacation leave. An employer may elect to waive the rights provided pursuant
2 to this subsection.

3 Sec. 3. 21 V.S.A. § 472d is added to read:

4 § 472d. LEAVE

5 (a) As used in this section:

6 (1) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

7 (2) “Domestic violence” has the same meaning as in 15 V.S.A. § 1151.

8 (3) “Employer” means any person who employs one or more individuals
9 to perform services in Vermont.

10 (4) “Employee” means a person who, in consideration of direct or
11 indirect gain or profit, has been continuously employed by the same employer
12 for a period of six months for an average of at least 20 hours per week.

13 (5) “Family member” means the employee’s:

14 (A) child, stepchild, ward, or foster child;

15 (B) spouse, domestic partner, or civil union partner;

16 (C) parent or the parent of the employee’s spouse, domestic partner,
17 or civil union partner;

18 (D) sibling or the sibling of the employee’s spouse, domestic partner,
19 or civil union partner;

20 (E) grandchild or the grandchild of the employee’s spouse, domestic
21 partner, or civil union partner;

1 (F) grandparent or the grandparent of the employee’s spouse,
2 domestic partner, or civil union partner; and

3 (G) as demonstrated by the employee, any other individual with
4 whom the employee has a significant personal bond that is or is like a family
5 relationship, regardless of biological or legal relationship.

6 (6) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

7 (7) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

8 (b)(1) In addition to any other leave provided pursuant to this subchapter,
9 an employee shall be entitled to take up to eight weeks of leave in a 12-month
10 period if:

11 (A) the employee or the employee’s family member is a victim of
12 domestic violence, sexual assault, or stalking;

13 (B) the employee is using the leave for one of the following reasons
14 related to the domestic violence, sexual assault, or stalking:

15 (i) to seek or obtain medical care, counseling, or social or legal
16 services;

17 (ii) to recover from injuries;

18 (iii) to participate in safety planning;

19 (iv) to relocate or secure safe housing; or

20 (v) to meet with a State’s attorney or law enforcement officer; and

1 (C) the employee is not the perpetrator of the domestic violence,
2 sexual assault, or stalking.

3 (2)(A) An employee may use the leave provided pursuant to this
4 subsection intermittently.

5 (B) An employee who uses leave intermittently shall be entitled to
6 take leave in increments of not less than one day.

7 (c) During the leave, at the employee's option, the employee may use
8 accrued sick leave, vacation leave, or any other accrued paid leave. Use of
9 accrued paid leave shall not extend the leave provided pursuant to this section.

10 (d)(1)(A) If the need for a leave pursuant to this section is foreseeable, the
11 employee shall provide the employer with written notice of the need for the
12 leave as soon as practicable.

13 (B) An employee shall not be required to provide advance notice of
14 the need for leave caused by an emergency or other unforeseen event, but shall
15 instead notify the employer that the leave was taken or is being taken within
16 three business days after commencing the leave.

17 (2)(A) An employer may require an employee to provide documentation
18 of the need for the leave from one of the following sources:

19 (i) a court or a law enforcement or other government agency;

20 (ii) a domestic violence, sexual assault, or stalking assistance
21 program;

1 (iii) a legal, clerical, medical, or other professional from whom the
2 employee, or the employee's family member, received counseling or other
3 assistance concerning domestic violence, sexual assault, or stalking; or

4 (iv) a self-certification of the employee's, or the employee's
5 family member's, status as a victim of domestic violence, sexual assault, or
6 stalking, signed under penalty of perjury, on a standard form adopted for that
7 purpose by:

8 (I) a federal or State government entity, including the Vermont
9 Department for Children and Families; or

10 (II) a nonprofit organization that provides support services to
11 protected tenants.

12 (B) An employer shall not disclose any information received
13 pursuant to this subdivision (d)(2) except to the extent:

14 (i) consented to by the employee in writing;

15 (ii) required pursuant to a court order; or

16 (iii) required pursuant to State or federal law.

17 (e) The employer shall continue employment benefits for the duration of a
18 leave taken pursuant to this section at the level and under the conditions
19 coverage would be provided if the employee continued in employment
20 continuously for the duration of the leave. The employer may require that the

1 employee contribute to the cost of benefits during the leave at the existing rate
2 of employee contribution.

3 (f) The employer shall post and maintain in a conspicuous place in and
4 about each of its places of business printed notices of the provisions of this
5 section on forms provided by the Commissioner of Labor.

6 (g)(1) Upon return from leave taken under this section, an employee shall
7 be offered the same or comparable job at the same level of compensation,
8 employment benefits, seniority, and any other term or condition of the
9 employment existing on the day leave began.

10 (2) This subsection shall not apply if, prior to requesting leave, the
11 employee had been given notice or had given notice that the employment
12 would terminate.

13 (3) This subsection shall not apply if the employer can demonstrate by
14 clear and convincing evidence that during the period of leave the employee's
15 job would have been terminated or the employee would have been laid off for
16 reasons unrelated to the leave or the reason for which the leave was taken.

17 (h)(1) An employer may adopt a leave policy more generous than the leave
18 provided by this section.

19 (2) Nothing in this section shall be construed to diminish an employer's
20 obligation to comply with any collective bargaining agreement or any

1 employment benefit program or plan that provides greater leave rights than the
2 rights provided by this section.

3 (3) A collective bargaining agreement or employment benefit program
4 or plan shall not diminish rights provided by this section.

5 Sec. 4. EFFECTIVE DATE

6 This act shall take effect on July 1, 2021.