

HOUSE BILL No. 1244

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10; IC 22-2-19.

Synopsis: Bereavement and parental leave. Provides three days of paid leave for an employee of a state agency or a political subdivision to attend the funeral of the employee's relative or grieve the death of the employee's relative or a miscarriage experienced by the employee or the employee's spouse. Provides 150 hours of paid leave for a full-time employee of a state agency or a political subdivision and 75 hours of paid leave for a part-time employee of a state agency or a political subdivision upon: (1) the birth of the employee's child; (2) the birth of a child to the employee's spouse; (3) the placement of a child for adoption with the employee; or (4) the stillbirth of the employee's child. Provides unpaid leave of not more than 10 working days for an employee under certain circumstances related to the death of the employee's child, a stillbirth, or a miscarriage. Prohibits an employer from taking an adverse employment action against an employee who exercises the rights provided by the unpaid leave requirements. Allows the department of labor to collect civil penalties if an employer violates the unpaid leave requirements. Provides that an employee may bring a civil action against an employer to enforce the unpaid leave requirements.

Effective: July 1, 2022.

Bauer M, Jackson

January 6, 2022, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1244

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-10-6.2 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2022]:
- 4 **Chapter 6.2. Bereavement Leave for Public Employees**
- 5 **Sec. 1. As used in this chapter, "employee" means a person who**
- 6 **is employed full-time or part-time by a state agency or a political**
- 7 **subdivision.**
- 8 **Sec. 2. As used in this chapter, "miscarriage" means the natural**
- 9 **loss of a fetus before twenty (20) weeks of gestation.**
- 10 **Sec. 3. As used in this chapter, "political subdivision" has the**
- 11 **meaning set forth in IC 36-1-2-13.**
- 12 **Sec. 4. (a) As used in this chapter, "relative" means any of the**
- 13 **following:**
- 14 **(1) A spouse.**
- 15 **(2) A parent.**
- 16 **(3) A child.**
- 17 **(4) A sibling.**



1 (5) A grandparent.

2 (6) A grandchild.

3 (7) A great-grandparent.

4 (8) A great-grandchild.

5 (9) A person living in the same household.

6 (b) For purposes of this section, a relative by adoption,
7 half-blood, marriage, or remarriage is considered as a relative of
8 whole kinship.

9 Sec. 5. As used in this chapter, "state agency" means an
10 authority, a board, a branch, a bureau, a commission, a committee,
11 a council, a department, a division, an office, an officer, a service,
12 or an instrumentality of the executive, judicial, or legislative
13 branch of state government. The term includes a state educational
14 institution (as defined in IC 21-7-13-32).

15 Sec. 6. (a) An employee shall be granted not more than three (3)
16 work days of paid leave in the event of the death of a relative or a
17 miscarriage experienced by the employee or the employee's spouse
18 to:

19 (1) attend:

20 (A) the funeral; or

21 (B) an alternative to a funeral;

22 of the employee's relative;

23 (2) make arrangements necessitated by the death of the
24 employee's relative; or

25 (3) grieve:

26 (A) the death of the employee's relative; or

27 (B) the miscarriage.

28 (b) The leave to which an employee is entitled under subsection
29 (a) must be completed less than sixty (60) days after the death of
30 the relative or the miscarriage.

31 Sec. 7. (a) A state agency or a political subdivision shall
32 compensate an employee granted leave under this chapter at the
33 employee's regular rate of pay for the regular work hours during
34 which the employee is absent from work.

35 (b) A leave of absence granted to an employee under this
36 chapter is in addition to vacation days, sick days, personal days,
37 and compensatory time that the employee accrues.

38 (c) An employee's service shall be considered uninterrupted by
39 a leave of absence under this chapter for purposes of determining
40 the following:

41 (1) Seniority.

42 (2) Salary or salary advancement.



1 **(3) Performance awards.**

2 **(4) The receipt of a benefit that may be affected by a leave of**
 3 **absence.**

4 SECTION 2. IC 5-10-6.5 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2022]:

7 **Chapter 6.5. Parental Leave for Public Employees**

8 **Sec. 1. As used in this chapter, "employee" means a person who**
 9 **is employed by a state agency or a political subdivision.**

10 **Sec. 2. As used in this chapter, "political subdivision" has the**
 11 **meaning set forth in IC 36-1-2-13.**

12 **Sec. 3. As used in this chapter, "state agency" means an**
 13 **authority, a board, a branch, a bureau, a commission, a committee,**
 14 **a council, a department, a division, an office, an officer, a service,**
 15 **or an instrumentality of the executive, judicial, or legislative**
 16 **branch of state government. The term includes a state educational**
 17 **institution (as defined in IC 21-7-13-32).**

18 **Sec. 4. As used in this chapter, "stillbirth" means a birth after**
 19 **twenty (20) weeks of gestation that is not a live birth.**

20 **Sec. 5. (a) A full-time employee who has been employed by a**
 21 **state agency or a political subdivision for at least six (6) consecutive**
 22 **months shall be granted not more than one hundred fifty (150)**
 23 **hours of paid leave upon any of the following events:**

- 24 **(1) The birth of the employee's child.**
 25 **(2) The birth of a child to the employee's spouse.**
 26 **(3) The placement of a child for adoption with the employee.**
 27 **(4) The stillbirth of the employee's child.**

28 **(b) A part-time employee who has been employed by a state**
 29 **agency or a political subdivision for at least six (6) consecutive**
 30 **months shall be granted not more than seventy-five (75) hours of**
 31 **paid leave upon any of the following events:**

- 32 **(1) The birth of the employee's child.**
 33 **(2) The birth of a child to the employee's spouse.**
 34 **(3) The placement of a child for adoption with the employee.**
 35 **(4) The stillbirth of the employee's child.**

36 **(c) Any leave to which an employee is entitled under subsection**
 37 **(a) or (b) that is not taken:**

- 38 **(1) less than six (6) months after the birth, placement for**
 39 **adoption, or stillbirth; or**
 40 **(2) before the employee's separation from employment with**
 41 **the state agency or the political subdivision;**

42 **whichever is earlier, is forfeited.**



1 **Sec. 6. (a)** A state agency or a political subdivision shall
 2 compensate an employee granted leave under this chapter at the
 3 employee's regular rate of pay for the regular work hours during
 4 which the employee is absent from work.

5 **(b)** A leave of absence granted to an employee under this
 6 chapter is in addition to vacation days, sick days, personal days,
 7 and compensatory time that the employee accrues.

8 **(c)** If an employee is eligible for leave under the federal Family
 9 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), the leave
 10 provided by this chapter runs concurrently with the amount of
 11 leave available under the federal Family Medical Leave Act of 1993
 12 (29 U.S.C. 2601 et seq.).

13 **(d)** An employee's service shall be considered uninterrupted by
 14 a leave of absence under this chapter for purposes of determining
 15 the following:

16 **(1)** Seniority.

17 **(2)** Salary or salary advancement.

18 **(3)** Performance awards.

19 **(4)** The receipt of a benefit that may be affected by a leave of
 20 absence.

21 SECTION 3. IC 22-2-19 IS ADDED TO THE INDIANA CODE AS
 22 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2022]:

24 **Chapter 19. Child Bereavement Leave**

25 **Sec. 1.** As used in this chapter, "child" includes:

26 **(1)** a biological child;

27 **(2)** an adopted child;

28 **(3)** a foster child;

29 **(4)** a stepchild; or

30 **(5)** a child of a person standing in loco parentis.

31 **Sec. 2.** As used in this chapter, "department" refers to the
 32 department of labor created by IC 22-1-1-1.

33 **Sec. 3.** As used in this chapter, "employee" has the meaning set
 34 forth in Section 101(2) of the federal Family and Medical Leave
 35 Act of 1993 (29 U.S.C. 2611), as in effect on January 1, 2022.

36 **Sec. 4.** As used in this chapter, "employer" has the meaning set
 37 forth in Section 101(4) of the federal Family and Medical Leave
 38 Act of 1993 (29 U.S.C. 2611), as in effect on January 1, 2022.

39 **Sec. 5.** As used in this chapter, "miscarriage" means the natural
 40 loss of a fetus before twenty (20) weeks of gestation.

41 **Sec. 6.** As used in this chapter, "stillbirth" means a birth after
 42 twenty (20) weeks of gestation that is not a live birth.



1 **Sec. 7. (a) Except as provided in subsection (c), an employee is**
 2 **entitled to use not more than ten (10) working days of unpaid leave**
 3 **to:**

4 **(1) attend:**

5 **(A) the funeral; or**

6 **(B) an alternative to a funeral;**
 7 **of the employee's child;**

8 **(2) make arrangements necessitated by the death of the**
 9 **employee's child;**

10 **(3) recover from a miscarriage or stillbirth; or**

11 **(4) grieve:**

12 **(A) the death of the employee's child;**

13 **(B) a miscarriage experienced by the employee or the**
 14 **employee's spouse; or**

15 **(C) a stillbirth.**

16 **(b) The leave to which an employee is entitled under subsection**
 17 **(a) must be completed less than sixty (60) days after the death of**
 18 **the child, a miscarriage, or a stillbirth.**

19 **(c) If more than one (1) child of an employee dies during a**
 20 **twelve (12) month period, the employee is entitled to use not more**
 21 **than thirty (30) working days of unpaid leave during the twelve**
 22 **(12) month period.**

23 **(d) An employee may elect to substitute any earned paid or**
 24 **unpaid leave, including:**

25 **(1) family leave;**

26 **(2) medical leave;**

27 **(3) sick leave;**

28 **(4) annual leave; or**

29 **(5) personal leave;**

30 **available for use by the employee for any period of the leave to**
 31 **which the employee is entitled under this chapter.**

32 **(e) This chapter does not entitle an employee to take leave that**
 33 **exceeds the amount of leave available under the federal Family**
 34 **Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).**

35 **Sec. 8. (a) Except as provided in subsection (b), an employee**
 36 **shall notify the employer of the employee's intent to take leave**
 37 **under this chapter at least forty-eight (48) hours before the date on**
 38 **which the employee intends to begin the leave.**

39 **(b) An employee is not required to comply with subsection (a)**
 40 **if the employee:**

41 **(1) is unable to provide at least forty-eight (48) hours notice**
 42 **under the circumstances; and**



- 1 (2) notifies the employer of the employee's intent to take leave
2 under this chapter as soon as practicable.
- 3 **Sec. 9. (a)** An employer may require an employee who requests
4 leave under this chapter to submit documentation related to the
5 child's death, stillbirth, or miscarriage, including any of the
6 following:
- 7 (1) A death certificate.
8 (2) A published obituary.
9 (3) A written verification of death, burial, or memorial
10 services from a mortuary, funeral home, burial society,
11 crematorium, religious institution, or government agency.
12 (4) A written verification of a stillbirth or miscarriage.
- 13 **(b)** If an employee fails to provide the documentation required
14 under subsection (a), an employer may consider the employee's
15 absence from employment unexcused.
- 16 **Sec. 10. (a)** An employer may not take an adverse employment
17 action against an employee because the employee:
- 18 (1) exercises or attempts to exercise the rights provided by
19 this chapter;
20 (2) opposes employer practices that the employee believes to
21 be in violation of this chapter; or
22 (3) supports another employee who exercises the rights
23 provided by this chapter.
- 24 **(b)** For the purposes of this section, an employee exercises the
25 rights provided by this chapter when the employee does any of the
26 following:
- 27 (1) Files an action or initiates a proceeding to enforce this
28 chapter.
29 (2) Provides or agrees to provide information related to a
30 request for leave under this chapter.
31 (3) Testifies or agrees to testify in an action or proceeding to
32 enforce this chapter.
- 33 **Sec. 11. (a)** An employee may file a complaint with the
34 department not later than sixty (60) days after the date of the last
35 occurrence of the alleged violation.
- 36 **(b)** The department shall receive and investigate a complaint
37 filed under subsection (a).
- 38 **(c)** If the department finds that an employer has violated this
39 chapter, the department may impose a civil penalty not to exceed:
- 40 (1) five hundred dollars (\$500) for the first violation; or
41 (2) one thousand dollars (\$1,000) for the second violation and
42 each subsequent violation.



1 **Sec. 12. All civil penalties collected under section 11 of this**
2 **chapter shall be deposited in the state general fund.**

3 **Sec. 13. (a) An employee may bring a civil action against an**
4 **employer to enforce this chapter.**

5 **(b) An employee may bring an action under this section**
6 **regardless of whether a complaint has been filed under section 11**
7 **of this chapter.**

8 **(c) A court may order an award of any or all of the following to**
9 **an individual who prevails in an action under subsection (a):**

10 **(1) Compensatory damages.**

11 **(2) Back pay.**

12 **(3) Court costs.**

13 **(4) Reasonable attorney's fees.**

14 **(5) Declaratory or equitable relief, including injunctive relief.**

15 **Sec. 14. The department shall adopt rules under IC 4-22-2 to**
16 **carry out the department's responsibilities under this chapter.**

