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H.P. 900

House of Representatives, March 14, 2019

An Act To Mandate Paid Maternity and Parental Leave

Reference to the Committee on Labor and Housing suggested and ordered printed.

ROBERT B. HUNT

R(+ B. Hunt

Clerk

Presented by Representative COLLINGS of Portland.
Cosponsored by Senator SANBORN, H. of Cumberland and
Representatives: CARDONE of Bangor, CUDDY of Winterport, GRAMLICH of Old Orchard
Beach, McDONALD of Stonington, PERRY of Calais, ROBERTS-LOVELL of South
Berwick, TALBOT ROSS of Portland, WARREN of Hallowell.

1	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 26 MRSA c. 7, sub-c. 6-C is enacted to read:
3	SUBCHAPTER 6-C
4	PAID MATERNITY AND PARENTAL LEAVE REQUIREMENTS
5	§850-A. Definitions
6 7	As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.
8 9 10	1. Employee. "Employee" means a person who may be permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment but does not include an independent contractor.
11 12 13	2. Employee benefits. "Employee benefits" means all benefits, other than salary and wages, provided or made available to employees by an employer and includes group life insurance, health insurance, disability insurance and pensions, regardless of whether benefits are provided by a policy or practice of an employer.
15	3. Large employer. "Large employer" means:
16 17	A. Any person, sole proprietorship, partnership, corporation, association or other business entity that employs more than 49 employees;
18 19	B. The State, including the executive, legislative and judicial branches and any state department or agency that employs any employees; and
20	C. Any city, town or municipal agency that employs more than 49 employees.
21	"Large employer" includes any agent of a large employer.
22	4. Small employer. "Small employer" means:
23 24	A. A person, sole proprietorship, partnership, corporation, association or other business entity that employs one to 49 employees; and
25	B. A city, town or municipal agency that employs one to 49 employees.
26	§850-B. Paid maternity leave
27 28 29	1. Maternity leave entitlement; small employers. An employee of a small employer who has been employed by the same employer for 12 consecutive months and who gives birth is entitled to 2 work weeks of paid maternity leave.
30 31 32	2. Maternity leave entitlement; large employers. An employee of a large employer who has been employed by the same employer for 12 consecutive months and who gives birth is entitled to 4 work weeks of paid maternity leave.

§850-C. Paid parental leave

- 1. Parental leave entitlement; small employers. An employee of a small employer who has been employed by the same employer for 12 consecutive months and who is the spouse or domestic partner of a person who gives birth is entitled to one work week of paid parental leave.
- 2. Parental leave entitlement; large employers. An employee of a large employer who has been employed by the same employer for 12 consecutive months and who is the spouse or domestic partner of a person who gives birth is entitled to 2 work weeks of paid parental leave.

§850-D. Employee benefits protection

- 1. Restoration. An employee who exercises the right to paid maternity or parental leave under this subchapter, upon expiration of the leave, is entitled to be restored by the employer to the position held by the employee when the leave commenced or to a position with equivalent seniority status, employee benefits, pay and other terms and conditions of employment. This subsection does not apply if the employer proves that the employee was not restored as provided in this subsection because of conditions unrelated to the employee's exercise of rights under this subchapter.
- 2. Maintenance of employee benefits. An employer shall maintain an employee's employee benefits at the employer's expense for the duration of paid maternity or parental leave taken under this subchapter.

§850-E. Effect on existing employee benefits

- 22 <u>1. Benefit accrual.</u> The taking of paid maternity or parental leave under this 23 <u>subchapter may not result in the loss of any employee benefit accrued before the date on</u> 24 which the leave commenced.
 - 2. Effect on collective bargaining. Nothing in this subchapter may be construed to affect an employer's obligation to comply with any collective bargaining agreement or employee benefit plan that provides greater paid maternity or parental leave rights to employees than the rights provided under this subchapter.
 - 3. Rights not diminished. The paid maternity or parental leave rights mandated by this subchapter may not be diminished by a collective bargaining agreement or an employee benefit plan.
 - 4. Contract rights. Nothing in this subchapter may be construed to affect or diminish the contract rights or seniority status of an employee of an employer covered by this subchapter.

§850-F. Prohibited acts

1. Unlawful interference or denial of rights. An employer may not interfere with,
 restrain or deny the exercise of or the attempt to exercise a right provided by this subchapter.

- 2. Unlawful discrimination against exercise of rights. An employer may not discharge, fine, suspend, expel, discipline or in any other manner discriminate against an employee for exercising a right provided by this subchapter.
 - 3. Unlawful discrimination against opposition. An employer may not discharge, fine, suspend, expel, discipline or in any other manner discriminate against an employee for opposing a practice made unlawful by this subchapter.

§850-G. Judicial enforcement

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- 1. Injunction and damages. A civil action may be brought in the appropriate court by an employee against an employer to enforce this subchapter. The court may enjoin any act or practice that violates or may violate this subchapter and may order any other equitable relief that is necessary and appropriate to redress the violation or to enforce this subchapter. The court also may:
 - A. Award damages equal to the wages, salary, employment benefits or other compensation denied or lost to the employee by reason of the violation; or
 - B. Order the employer to pay liquidated damages of \$100 to the employee for each day the violation continued.
- 2. Additional damages. The court also may order the employer to pay an additional amount as liquidated damages equal to the amount awarded under subsection 1 if the employee proves to the satisfaction of the court that the employer's violation was willful.
- 3. Attorney's fees. In any action brought pursuant to this section, in addition to any judgment awarded to the employee, the court shall award reasonable attorney's fees and other costs of the action to be paid by the employer.

23 SUMMARY

This bill requires employers with one to 49 employees to provide 2 weeks of paid maternity leave, including existing benefits, to an employee who gives birth and one week of paid parental leave to an employee whose spouse or domestic partner gives birth. Employers with more than 49 employees are required to provide 4 weeks of paid maternity leave, including existing benefits, to an employee who gives birth and 2 weeks of paid parental leave to an employee whose spouse or domestic partner gives birth. The bill also includes provisions regarding the protection of existing benefits, position restoration, denial of rights and judicial enforcement similar to the provisions of the family medical leave laws.