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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1741

02/27/2019 Authored by Zerwas, Huot, Schomacker, Cantrell and Edelson
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to health; prohibiting discrimination based on status as a living organ
1.3 donor; extending paid leave benefits to living organ donors; requiring unpaid leave
1.4 for organ donors; making a conforming change; amending Minnesota Statutes
1.5 2018, sections 181.945; 424A.01, subdivision 6; proposing coding for new law in
1.6 Minnesota Statutes, chapter 62A; repealing Minnesota Statutes 2018, section
1.7 181.9456.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. 62A.3065] DISCRIMINATION BASED ON STATUS AS A LIVING
1.10 ORGAN DONOR PROHIBITED.

1.11 (a) No health carrier shall decline to provide or limit coverage of an insured or otherwise
1.12 discriminate in the premium rating, offering, issuance, cancellation, amount of coverage,
1.13 or any other condition, based solely upon the status of an insured as a living organ donor
1.14 and without additional actuarial risks.

1.15 (b) No health carrier shall preclude an insured from donating all or part of an organ as
1.16 a condition of receiving or continuing to receive coverage under a health plan.

1.17 Sec. 2. Minnesota Statutes 2018, section 181.945, is amended to read:

1.18 **181.945 LEAVE FOR BONE MARROW OR ORGAN DONATIONS.**

1.19 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
1.20 the meanings given to them in this subdivision.

1.21 (b) "Employee" means a person who performs services for hire for an employer, for an
1.22 average of 20 or more hours per week, and includes all individuals employed at any site
1.23 owned or operated by an employer. Employee does not include an independent contractor.

2.1 (c) "Employer" means a person or entity that employs 20 or more employees at at least
 2.2 one site and includes an individual, corporation, partnership, association, nonprofit
 2.3 organization, group of persons, state, county, town, city, school district, or other governmental
 2.4 subdivision.

2.5 Subd. 2. **Paid leave.** An employer must grant paid leaves of absence to an employee
 2.6 who seeks to undergo a medical procedure to donate bone marrow or to donate an organ or
 2.7 partial organ to another person. The combined length of the leaves shall be determined by
 2.8 the employee, but may not exceed 40 work hours, unless agreed to by the employer. The
 2.9 employer may require verification by a physician of the purpose and length of each leave
 2.10 requested by the employee ~~to donate~~ for bone marrow or organ donation. If there is a medical
 2.11 determination that the employee does not qualify as a bone marrow or organ donor, the paid
 2.12 leave of absence granted to the employee prior to that medical determination is not forfeited.

2.13 Subd. 2a. **Unpaid leave; organ donation.** An employer must grant unpaid leaves of
 2.14 absence to an employee who seeks to undergo a medical procedure to donate an organ or
 2.15 partial organ to another person. The total length of leave under this subdivision and
 2.16 subdivision 2 shall be determined by the employee, but must not exceed 12 weeks, unless
 2.17 agreed to by the employer.

2.18 Subd. 3. **No employer sanctions.** An employer shall not retaliate against an employee
 2.19 for requesting or obtaining a leave of absence as provided by this section.

2.20 Subd. 4. **Relationship to other leave.** This section does not prevent an employer from
 2.21 providing leave for bone marrow or organ donations in addition to leave allowed under this
 2.22 section. This section does not affect an employee's rights with respect to any other
 2.23 employment benefit.

2.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.25 Sec. 3. Minnesota Statutes 2018, section 424A.01, subdivision 6, is amended to read:

2.26 Subd. 6. **Return to active firefighting after break in service.** (a) This subdivision
 2.27 governs the service pension calculation requirements of a firefighter who returns to active
 2.28 service after a break in service and applies to all breaks in service, except that the resumption
 2.29 service requirements of this subdivision do not apply to leaves of absence made available
 2.30 by federal statute, such as the Family Medical Leave Act, United States Code, title 29,
 2.31 section 2691, and the Uniformed Services Employment and Reemployment Rights Act,
 2.32 United States Code, title 38, section 4301, and do not apply to leaves of absence made
 2.33 available by state statute, such as the Parental Leave Act, section 181.941; ~~the~~ leave for

3.1 bone marrow or organ donation Act, section ~~181.9456~~ 181.945; the Leave for Civil Air
3.2 Patrol Service Act, section 181.946; the Leave for Immediate Family Members of Military
3.3 Personnel Injured or Killed in Active Service Act, section 181.947; or the Protection of
3.4 Jurors' Employment Act, section 593.50.

3.5 (b)(1) If a firefighter who has ceased to perform or supervise fire suppression and fire
3.6 prevention duties for at least 60 days resumes performing active firefighting with the fire
3.7 department associated with the relief association, if the bylaws of the relief association so
3.8 permit, the firefighter may again become an active member of the relief association. A
3.9 firefighter who returns to active service and membership is subject to the service pension
3.10 calculation requirements under this section.

3.11 (2) A firefighter who has been granted an approved leave of absence not exceeding one
3.12 year by the fire department or by the relief association is exempt from the minimum period
3.13 of resumption service requirement of this section.

3.14 (3) A person who has a break in service not exceeding one year but has not been granted
3.15 an approved leave of absence and who has not received a service pension or disability benefit
3.16 may be made exempt from the minimum period of resumption service requirement of this
3.17 section by the relief association bylaws.

3.18 (4) If the bylaws so provide, a firefighter who returns to active relief association
3.19 membership under this paragraph may continue to collect a monthly service pension,
3.20 notwithstanding the service pension eligibility requirements under chapter 424A.

3.21 (c) If a former firefighter who has received a service pension or disability benefit returns
3.22 to active relief association membership under paragraph (b), the firefighter may qualify for
3.23 the receipt of a service pension from the relief association for the resumption service period
3.24 if the firefighter meets the service requirements of section 424A.016, subdivision 3, or
3.25 424A.02, subdivision 2. No firefighter may be paid a service pension more than once for
3.26 the same period of service.

3.27 (d) If a former firefighter who has not received a service pension or disability benefit
3.28 returns to active relief association membership under paragraph (b), the firefighter may
3.29 qualify for the receipt of a service pension from the relief association for the original and
3.30 resumption service periods if the firefighter meets the service requirements of section
3.31 424A.016, subdivision 3, or 424A.02, subdivision 2, based on the original and resumption
3.32 years of service credit.

3.33 (e) A firefighter who returns to active lump-sum relief association membership under
3.34 paragraph (b) and who qualifies for a service pension under paragraph (c) must have, upon

4.1 a subsequent cessation of duties, any service pension for the resumption service period
4.2 calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter
4.3 upon the firefighter's previous cessation of duties, a second lump-sum service pension for
4.4 the resumption service period must be calculated by applying the service pension amount
4.5 in effect on the date of the firefighter's termination of the resumption service for all years
4.6 of the resumption service.

4.7 (f) A firefighter who had not been paid a lump-sum service pension returns to active
4.8 relief association membership under paragraph (b), who did not meet the minimum period
4.9 of resumption service requirement specified in the relief association's bylaws, but who does
4.10 meet the minimum service requirement of section 424A.02, subdivision 2, based on the
4.11 firefighter's original and resumption years of active service, must have, upon a subsequent
4.12 cessation of duties, a service pension for the original and resumption service periods
4.13 calculated by applying the service pension amount in effect on the date of the firefighter's
4.14 termination of the resumption service, or, if the bylaws so provide, based on the service
4.15 pension amount in effect on the date of the firefighter's previous cessation of duties. The
4.16 service pension for a firefighter who returns to active lump-sum relief association membership
4.17 under this paragraph, but who had met the minimum period of resumption service requirement
4.18 specified in the relief association's bylaws, must be calculated by applying the service
4.19 pension amount in effect on the date of the firefighter's termination of the resumption service.

4.20 (g) If a firefighter receiving a monthly benefit service pension returns to active monthly
4.21 benefit relief association membership under paragraph (b), and if the relief association
4.22 bylaws do not allow for the firefighter to continue collecting a monthly service pension,
4.23 any monthly benefit service pension payable to the firefighter is suspended as of the first
4.24 day of the month next following the date on which the firefighter returns to active
4.25 membership. If the firefighter was receiving a monthly benefit service pension, and qualifies
4.26 for a service pension under paragraph (c), the firefighter is entitled to an additional monthly
4.27 benefit service pension upon a subsequent cessation of duties calculated based on the
4.28 resumption service credit and the service pension accrual amount in effect on the date of
4.29 the termination of the resumption service. A suspended initial service pension resumes as
4.30 of the first of the month next following the termination of the resumption service. If the
4.31 firefighter was not receiving a monthly benefit service pension and meets the minimum
4.32 service requirement of section 424A.02, subdivision 2, a service pension must be calculated
4.33 by applying the service pension amount in effect on the date of the firefighter's termination
4.34 of the resumption service for all years of service credit.

5.1 (h) A firefighter who was not receiving a monthly benefit service pension returns to
5.2 active relief association membership under paragraph (b), who did not meet the minimum
5.3 period of resumption service requirement specified in the relief association's bylaws, but
5.4 who does meet the minimum service requirement of section 424A.02, subdivision 2, based
5.5 on the firefighter's original and resumption years of active service, must have, upon a
5.6 subsequent cessation of duties, a service pension for the original and resumption service
5.7 periods calculated by applying the service pension amount in effect on the date of the
5.8 firefighter's termination of the resumption service, or, if the bylaws so provide, based on
5.9 the service pension amount in effect on the date of the firefighter's previous cessation of
5.10 duties. The service pension for a firefighter who returns to active relief association
5.11 membership under this paragraph, but who had met the minimum period of resumption
5.12 service requirement specified in the relief association's bylaws, must be calculated by
5.13 applying the service pension amount in effect on the date of the firefighter's termination of
5.14 the resumption service.

5.15 (i) For defined contribution plans, a firefighter who returns to active relief association
5.16 membership under paragraph (b) and who qualifies for a service pension under paragraph
5.17 (c) or (d) must have, upon a subsequent cessation of duties, any service pension for the
5.18 resumption service period calculated as a separate benefit. If a service pension had been
5.19 paid to the firefighter upon the firefighter's previous cessation of duties, and if the firefighter
5.20 meets the minimum service requirement of section 424A.016, subdivision 3, based on the
5.21 resumption years of service, a second service pension for the resumption service period
5.22 must be calculated to include allocations credited to the firefighter's individual account
5.23 during the resumption period of service and deductions for administrative expenses, if
5.24 applicable.

5.25 (j) For defined contribution plans, if a firefighter who had not been paid a service pension
5.26 returns to active relief association membership under paragraph (b), and who meets the
5.27 minimum service requirement of section 424A.016, subdivision 3, based on the firefighter's
5.28 original and resumption years of service, must have, upon a subsequent cessation of duties,
5.29 a service pension for the original and resumption service periods calculated to include
5.30 allocations credited to the firefighter's individual account during the original and resumption
5.31 periods of service and deductions for administrative expenses, if applicable, less any amounts
5.32 previously forfeited under section 424A.016, subdivision 4.

5.33 Sec. 4. **REPEALER.**

5.34 Minnesota Statutes 2018, section 181.9456, is repealed.

181.9456 LEAVE FOR ORGAN DONATION.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given to them in this subdivision.

(b) "Employee" means a person who performs services for hire for a public employer, for an average of 20 or more hours per week, and includes all individuals employed at any site owned or operated by a public employer. Employee does not include an independent contractor.

(c) "Employer" means a state, county, city, town, school district, or other governmental subdivision that employs 20 or more employees.

Subd. 2. **Leave.** An employer must grant paid leaves of absence to an employee who seeks to undergo a medical procedure to donate an organ or partial organ to another person. The combined length of the leaves shall be determined by the employee, but may not exceed 40 work hours for each donation, unless agreed to by the employer. The employer may require verification by a physician of the purpose and length of each leave requested by the employee for organ donation. If there is a medical determination that the employee does not qualify as an organ donor, the paid leave of absence granted to the employee prior to that medical determination is not forfeited.

Subd. 3. **No employer sanctions.** An employer shall not retaliate against an employee for requesting or obtaining a leave of absence as provided by this section.

Subd. 4. **Relationship to other leave.** This section does not prevent an employer from providing leave for organ donations in addition to leave allowed under this section. This section does not affect an employee's rights with respect to any other employment benefit.