

SENATE BILL NO. 193

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

0359S.01H

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 285, RSMo, by adding thereto six new sections relating to leave from employment.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 285, RSMo, is amended by adding thereto
2 six new sections, to be known as sections 285.400, 285.405,
3 285.410, 285.415, 285.420, and 285.425, to read as follows:

285.400. 1. The provisions of sections 285.400 to
2 285.425 shall be known and may be cited as the "Missouri
3 Family and Medical Leave Act".

4 2. As used in sections 285.400 to 285.425, the
5 following terms shall mean:

6 (1) "Care", physical care, emotional support,
7 visitation, assistance in treatment, transportation,
8 arranging for a change in care, assistance with essential
9 daily living matters, and personal attendant services;

10 (2) "Child", a biological, adopted, or foster son or
11 daughter, a stepson or stepdaughter, a legal ward, a son or
12 daughter of a domestic or civil union partner, or the person
13 to whom the employee stands in loco parentis who is under
14 nineteen years of age or nineteen years of age or older but
15 incapable of self-care because of mental or physical
16 disability;

17 (3) "Department", the department of labor and
18 industrial relations;

19 (4) "Director", the director of the department of
20 labor and industrial relations or his or her authorized
21 representative;

22 (5) "Employee", any person performing work or service
23 of any kind or character for hire within the state of
24 Missouri;

25 (6) "Employer", any person acting directly or
26 indirectly in the interest of an employer in relation to an
27 employee, provided that such person employs at least twelve
28 employees;

29 (7) "Family and medical leave", any of the following:

30 (a) Leave to bond with a child within the first year
31 of the child's birth or placement in connection with foster
32 care or adoption; or

33 (b) Leave to care for a family member who has a
34 serious health condition;

35 (c) Leave when the employee is unable to work due to
36 the employee's own serious health condition;

37 (d) Leave to participate in activities which are
38 directly related to the educational advancement of such
39 employee's child, including but not limited to attending
40 parent-teacher conferences, interviewing for a new school,
41 responding to an emergency involving such employee's child,
42 or attending an athletic or other extracurricular activity
43 event in which such child is participating;

44 (8) "Family member", a spouse, parent, sibling, or
45 child of the employee;

46 (9) "Health care provider", any physician, hospital,
47 health maintenance organization, ambulatory surgical center,
48 long-term care facility including those licensed under
49 chapter 198, dentist, registered or licensed practical
50 nurse, optometrist, podiatrist, pharmacist, chiropractor,

51 professional physical therapist, psychologist, physician-in-
52 training, and any other person or entity that provides
53 health care services under the authority of a license or
54 certificate of this state or any other state or foreign
55 country;

56 (10) "Parent", a biological, foster, or adoptive
57 parent, a stepparent, or any other person who stood in loco
58 parentis to the employee when the employee was a child;

59 (11) "Serious health condition", an illness, injury,
60 impairment, or physical or mental condition that involves:

61 (a) Inpatient care in a hospital, hospice, or
62 residential health care facility;

63 (b) Continuing medical treatment; or

64 (c) Continuing supervision by a health care provider.

65 The term shall include medical attention, services, or
66 counseling for victims of stalking, domestic violence,
67 sexual assault, as such terms are defined in section
68 455.010, or victims of trafficking for the purposes of
69 sexual exploitation as described in section 566.209;

70 (12) "Sibling", a person related to another person by
71 blood, adoption, or affinity through a common legal or
72 biological parent;

73 (13) "Spouse", a partner to a lawful marriage.

285.405. 1. (1) Every employer shall provide family
2 and medical leave to each of its employees as provided in
3 this section.

4 (2) Employees taking family and medical leave shall be
5 compensated at sixty-five percent of the hourly rate at
6 which such employee is paid in the normal course of
7 employment or three hundred dollars per week, whichever is
8 greater.

9 2. (1) Every employee who has worked at least one
10 thousand two hundred and fifty hours within the previous
11 three hundred sixty-five-day period shall be entitled to six
12 hundred forty hours of family and medical leave.

13 (2) Nothing in this section shall prevent employees
14 from accruing or using leave under an employer's leave
15 program in addition to leave provided under this section.

16 3. An employee who is entitled to leave under the
17 Family and Medical Leave Act (FMLA) under 29 U.S.C. Section
18 2601 et. seq. shall take Missouri family and medical leave
19 concurrent with leave taken under the FMLA.

20 4. During any period that an employee takes leave
21 under sections 285.400 to 285.425, the employer shall
22 maintain coverage for the employee and any family or
23 household member under any group health plan for the
24 duration of such leave at the level and under the conditions
25 coverage would have been provided if the employee had
26 continued in employment for the duration of such leave.

 285.410. 1. An employee taking family and medical
2 leave due to the employee's own serious health condition or
3 due to the employee caring for a family member with a
4 serious health condition shall establish medical eligibility
5 for each uninterrupted family and medical leave period by
6 filing the certificate of a health care provider that
7 establishes the serious health condition of the employee or
8 the employee's family member. For subsequent periods of
9 uninterrupted leave after the period covered by the initial
10 certificate or any preceding continued claim, a claimant
11 shall file a continued claim for leave supported by the
12 certificate of a health care provider. The certificate form
13 shall be developed by the department.

14 2. In order to establish medical eligibility of the
15 serious health condition of the employee, the information
16 provided in the certificate shall be within the health care
17 provider's knowledge and shall be based on a physical
18 examination and documented medical history of the employee.
19 The certificate shall contain all of the following:

20 (1) A diagnosis or, if no diagnosis has yet been
21 obtained, a detailed statement of symptoms;

22 (2) The date, if known, on which the condition
23 commenced;

24 (3) The probable duration of the condition;

25 (4) A statement that the serious health condition
26 leaves the employee unable to work.

27 3. In order to establish medical eligibility of the
28 serious health condition of the family member that warrants
29 the care of the employee, the information provided in the
30 certificate shall be within the health care provider's
31 knowledge and shall be based on a physical examination and
32 documented medical history of the family member. The
33 certificate shall contain all of the following:

34 (1) A diagnosis or, if no diagnosis has yet been
35 obtained, a detailed statement of symptoms;

36 (2) The date, if known, on which the condition
37 commenced;

38 (3) The probable duration of the condition;

39 (4) An estimate of the amount of time that the health
40 care provider believes the employee needs to care for the
41 family member; and

42 (5) A statement that the serious health condition
43 warrants the participation of the employee to provide care
44 for his or her family member.

45 4. An employee claiming family and medical leave to
46 bond with a child during the first year after the birth or
47 placement of the child in connection with foster care or
48 adoption shall establish eligibility documentation as
49 required by the department to evidence the birth, adoption,
50 or fostering of a child.

51 5. Any employee who obtains care and treatment outside
52 the state shall be supported by a certificate of a health
53 care provider duly licensed or certified by the state or
54 foreign country in which the claimant is receiving the care
55 and treatment.

 285.415. Any employer who fails to comply with the
2 provisions of sections 285.400 to 285.425 shall be liable to
3 the employee affected for the full amount of the wage rate
4 and an additional equal amount as liquidated damages, less
5 any amount actually paid to the employee by the employer and
6 for costs and such reasonable attorney fees as may be
7 allowed by the court. The employee may bring any legal
8 action necessary to collect the claim. All actions brought
9 under this section shall be commenced within two years of
10 the accrual of the cause of action.

 285.420. 1. The department shall develop and
2 implement an outreach program to ensure that individuals who
3 may be eligible to take family and medical leave under
4 sections 285.400 to 285.425 are made aware of such leave.
5 Outreach information shall clearly explain eligibility
6 requirements notice and medical certification requirements,
7 nondiscrimination rights, confidentiality, and the
8 relationship between employment protection, leave from
9 employment, wage replacement benefits, and other laws, and
10 employer policies.

11 2. Every employer shall post and keep posted, in
12 conspicuous places on the premises of the employer where
13 notices to employees are customarily posted, a notice, to be
14 prepared or approved by the director, summarizing the
15 requirements of sections 285.400 to 285.425. The director
16 of the department shall furnish copies of notices and
17 summaries of the Missouri family and medical leave program
18 to employers upon request without charge.

 285.425. Any rule or portion of a rule, as that term
2 is defined in section 536.010 that is created under the
3 authority delegated in this section shall become effective
4 only if it complies with and is subject to all of the
5 provisions of chapter 536, and, if applicable, section
6 536.028. This section and chapter 536 are nonseverable and
7 if any of the powers vested with the general assembly
8 pursuant to chapter 536, to review, to delay the effective
9 date, or to disapprove and annul a rule are subsequently
10 held unconstitutional, then the grant of rulemaking
11 authority and any rule proposed or adopted after August 28,
12 2023, shall be invalid and void.

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