

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 549

By: Holt

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6 AS INTRODUCED

7 An Act relating to employment practices; prohibiting
8 certain unlawful employment practices for certain
9 persons; recognizing provisions of the Family and
10 Medical Leave Act; stating prohibited acts;
11 authorizing use of accrued paid leave; requiring
12 certain healthcare coverage during certain leave;
13 authorizing reimbursement of certain premiums paid;
14 granting exception to certain reimbursements;
15 construing certain employment agreements; construing
16 transfer policies; construing certain provisions;
17 providing for violation enforcement; providing for
18 codification; and providing an effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 88.1 of Title 40, unless there
22 is created a duplication in numbering, reads as follows:

23 A. For the purpose of all Oklahoma state employees, in addition
24 to the provisions that govern pregnancy, childbirth, adoption or a
related medical condition defined in the federal Family and Medical
Leave Act, each of the following shall be an unlawful employment
practice:

1 1. For a state employer to refuse to allow an employee disabled
2 by pregnancy, childbirth, or a related medical condition or for
3 adoption or foster care placement of a child, to take a leave for a
4 reasonable period of time not to exceed twenty (20) weeks and
5 thereafter return to work after the authorized leave at the next
6 regularly scheduled business day. The state employee shall be
7 entitled to utilize any accrued paid leave during this period of
8 time. "Reasonable period of time" means that period during which
9 the employee is disabled because of pregnancy, childbirth, or a
10 related medical condition or for adoption or foster care placement
11 of a child.

12 A state employer may require a state employee who plans to take
13 a leave pursuant to this subsection to give reasonable notice of the
14 date the leave shall commence and the estimated duration of the
15 leave;

16 2. a. for a state employer to refuse to maintain and pay for
17 coverage for an eligible employee who takes leave
18 pursuant to paragraph 1 of this subsection under a
19 group health plan, as defined in Section 5000(b)(1) of
20 the Internal Revenue Code of 1986, for the duration of
21 the leave, not to exceed twenty (20) weeks over the
22 course of a twelve-month period, commencing on the
23 date the leave taken under paragraph 1 of this
24 subsection begins, at the level and under the

1 conditions that coverage would have been provided if
2 the employee had continued in employment continuously
3 for the duration of the leave. Nothing in this
4 paragraph shall preclude a state employer from
5 maintaining and paying for coverage under a group
6 health plan beyond the twenty-week period. A state
7 employer may recover from the state employee the
8 premiums paid as required under this subsection for
9 maintaining coverage for the state employee under the
10 group health plan if both of the following conditions
11 occur:

12 (1) the state employee fails to return from leave
13 after the period of leave to which the employee
14 is entitled has expired, and

15 (2) the state employee's failure to return from leave
16 is for a reason other than one of the following:

17 (a) the employee taking leave under the federal
18 Family and Medical Leave Act, or

19 (b) other circumstance beyond the control of the
20 employee,

21 b. Any employment agreement shall govern with respect to
22 the continued receipt by an eligible employee of the
23 health care coverage specified in subparagraph a of
24 paragraph 2 of this subsection;

- 1 3. a. for a state employer to refuse to provide reasonable
2 accommodation for a state employee for a condition
3 related to pregnancy, childbirth or for adoption or
4 foster care placement of a child or a related medical
5 condition, if requested, with the advice of a health
6 care provider,
- 7 b. for a state employer who has a policy or practice
8 authorizing the transfer of temporarily disabled
9 employees to less strenuous or hazardous positions for
10 the duration of the disability to refuse to transfer a
11 pregnant employee who so requests,
- 12 c. for a state employer to refuse to temporarily transfer
13 a pregnant employee to a less strenuous or hazardous
14 position temporarily or for the duration of the
15 pregnancy if requested, with the advice of a
16 physician, where that transfer can be reasonably
17 accommodated. However, no employer shall be required
18 by this subsection to create additional employment
19 that the employer would not otherwise have created,
20 nor shall the employer be required to discharge any
21 employee, transfer any employee with more seniority or
22 promote any employee who is not qualified to perform
23 the job; and
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1 4. For a state employer to interfere with, restrain or deny the
2 exercise of, or the attempt to exercise, any right provided under
3 this section.

4 B. This section shall not be construed to affect any other
5 provision of law relating to sex discrimination or pregnancy, or in
6 any way to diminish the coverage of pregnancy, childbirth or a
7 medical condition related to pregnancy or childbirth or adoption
8 under any other provision of law of this state or the federal Family
9 and Medical Leave Act.

10 C. Any violation of the provisions of this act may be enforced
11 by the discriminated state employee in a civil action filed in the
12 district court of the county where the state employer's principle
13 office is located, by the Commissioner of Labor pursuant to
14 administrative fines authorized by Section 89 of Title 40 of the
15 Oklahoma Statutes, by both administrative fine and district court
16 action.

17 SECTION 2. This act shall become effective November 1, 2017.

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