

HOUSE BILL 442

By Shaw

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 8, relative to paid family leave.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 50, Part 8, is amended by adding the following new section:

(a) In addition to leave granted under §§ 8-50-801, 8-50-802, and 8-50-806, an eligible employee must be granted leave from work with pay for a period of time equal to twelve (12) workweeks during a twelve-month period:

(1) If, because of birth, adoption, or placement through foster care, the employee is caring for a new minor child during the first year after the birth, adoption, or placement of the child; or

(2) To care for a child, grandparent, parent, spouse, or anyone related by blood or affinity whose close relationship with the employee is the equivalent of a family relationship with a serious health condition. "Serious health condition" has the same meaning as defined in § 101(11) of the Family and Medical Leave Act (29 U.S.C. § 2611(11)).

(b) The eligible employee shall provide the appropriate appointing authority with not less than thirty (30) days' notice. If the eligible employee learns of the need for leave less than thirty (30) days in advance, the employee must give the notice as soon as reasonably possible.

(c) Leave used by an eligible employee pursuant to this section must not be charged against sick, annual, or other leave the employee may have accumulated.

(d) Leave granted pursuant to this section for a covered purpose runs concurrently with the eligible employee's use of leave under the Family and Medical Leave Act (29 U.S.C. § 2601 et. seq.) and § 4-21-408, as applicable.

(e) An eligible employee must be granted leave pursuant to subdivision (a)(1) intermittently or on a reduced leave schedule only with the employer's approval and such leave must conclude within twelve (12) months after the birth, adoption, or placement of the child. Leave taken pursuant to subdivision (a)(2) may be taken intermittently or on a reduced leave schedule as medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this subsection (e) must not result in a reduction in the total amount of leave to which the eligible employee is entitled under this section beyond the amount of leave actually taken.

(f) If both caretakers are eligible employees, then each caretaker receives leave under this section, which may be taken concurrently, consecutively, or at different times.

(g) An eligible employee who exercises the employee's right to leave under this section, upon the expiration of that leave, is entitled to be restored to the position held by the eligible employee when the leave commenced, or to a position with equivalent seniority, status, employment benefits, pay, and other terms and conditions of employment, including fringe benefits that the eligible employee had been entitled to at the commencement of leave.

(h) During leave taken pursuant to this section, the employer shall maintain healthcare benefits the eligible employee had prior to taking such leave for the duration of the leave as if the eligible employee had continued in employment continuously from the date the eligible employee commenced the leave until the date the leave terminated; provided, however, that the eligible employee must continue to pay the eligible

employee's share of the cost of the health benefits as required prior to the commencement of the leave.

(i) It is unlawful for an employer or a person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, a right protected under this section. An employer shall not take retaliatory personnel action or otherwise discriminate against a person because the employee exercised rights protected under this section. It is unlawful for an employer to count paid leave under this section as an act that may lead to or result in discipline, discharge, demotion, suspension, or other adverse action.

(j) The department of human resources shall establish procedures and policies implementing this section with regard to executive branch agencies. With regard to nonexecutive branch agencies, the equivalent of the agency's human resources office shall establish procedures and policies for implementing this section, as applicable.

(k) As used in this section, "eligible employee" means an employee who has been employed part-time or full-time with the state for at least six (6) months with an entity described in § 8-30-102(a); § 8-30-102(b)(1)-(8), including administrative boards and commissions attached to such entities; or § 8-30-102(b)(10)-(13).

SECTION 2. For purposes of promulgating rules and carrying out administrative duties necessary to effectuate the provisions and intent of this act, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, including eligibility for leave under this act, this act takes effect on July 1, 2023, the public welfare requiring it.