

AN ACT concerning employment.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Family Neonatal Intensive Care Leave Act.

Section 5. Definitions. As used in this Act:

"Child" means an employee's son or daughter who is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis.

"Department" means the Department of Labor.

"Employee" has the meaning ascribed to that term in Section 2 of the Illinois Wage Payment and Collection Act and also includes any employee of the State of Illinois.

"Employer" has the meaning ascribed to that term in Section 2 of the Illinois Wage Payment and Collection Act and also includes the State of Illinois.

"Neonatal intensive care unit" or "NICU" means a special care unit that provides medical treatment to premature and critically ill infants.

Section 10. Neonatal intensive care family leave.

(a) An employee of an employer with 16 or more employees and no more than 50 employees shall be entitled to use a

maximum of 10 days of unpaid neonatal intensive care leave while any child of the employee is a patient in a neonatal intensive care unit. An employee of an employer with 51 or more employees shall be entitled to use 20 days of unpaid neonatal intensive care leave while a child of the employee is a patient in a neonatal intensive care unit. Leave may be taken continually or intermittently at the employee's selection. An employer may require that leave be taken in minimum increments of not less than 2 hours in duration.

(b) An employee who is entitled to leave under the Family and Medical Leave Act and takes leave under this Act shall be granted, upon completion of and in addition to any leave taken under the Family and Medical Leave Act, any leave available under this Act. An employee shall be entitled to leave for the maximum number of days specified in subsection (a) or the length of time the employee's child was a patient in a neonatal intensive care unit, whichever is less. An employer shall not require that an employee use any paid leave available to the employee for any reason instead of leave the employee is entitled to under this Act. An employee who is entitled to take paid or unpaid leave, including family, medical, sick, annual, personal, or similar leave, from employment, under federal, State, or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of leave for an equivalent period of leave provided under this Act.

(c) Upon the conclusion of leave taken under this Act, an employee shall be reinstated to his or her former position or a substantially equivalent one with no loss of benefits held or accrued prior to taking leave. During the period of leave, any health insurance benefits shall be maintained by an employer as if an employee had not taken leave. An employer shall not require an employee who uses unpaid neonatal intensive care leave to provide a replacement worker.

(d) If an employee takes unpaid neonatal intensive care leave under this Section, an employer may require reasonable verification of the employee's child's length of stay in a neonatal intensive care unit. As part of a reasonable verification, an employer shall not request any confidential information protected by the Health Insurance Portability and Accountability Act of 1996 or other law.

#### Section 15. Unlawful employer practices.

(a) It is unlawful for any employer to take any adverse action against an employee because the employee:

(1) exercises rights or attempts to exercise rights under this Act;

(2) opposes practices which such employee believes to be in violation of this Act; or

(3) supports the exercise of rights of another under this Act.

(b) Exercising rights under this Act includes, but is not

limited to, filing an action or instituting or causing to be instituted any proceeding under or related to this Act, providing or agreeing to provide any information in connection with any inquiry or proceeding relating to any right provided under this Act, or testifying to or agreeing to testify in any inquiry or proceeding relating to any right provided under this Act.

Section 20. Department responsibilities.

(a) The Department shall administer and enforce this Act and adopt rules under the Illinois Administrative Procedure Act for the purpose of this Act. The Department shall have the powers and the parties shall have the rights provided in the Illinois Administrative Procedure Act for contested cases. The Department shall have the power to conduct investigations in connection with the administration and enforcement of this Act, including the power to conduct depositions and discovery and to issue subpoenas. If the Department finds cause to believe that this Act has been violated, the Department shall notify the parties in writing and the matter shall be referred to an administrative law judge to schedule a formal hearing in accordance with hearing procedures established by rule.

(b) The Department is authorized to impose civil penalties prescribed in Section 25 in administrative proceedings that comply with the Illinois Administrative Procedure Act and to supervise the payment of the unpaid wages and damages owing to

the employee or employees under this Act. The Department may bring any legal action necessary to recover the amount of unpaid wages, damages, and penalties, and the employer shall be required to pay the costs. Any sums recovered by the Department on behalf of an employee under this Act shall be paid to the employee or employees affected. However, 20% of any penalty collected from the employer for a violation of this Act shall be deposited into the Neonatal Intensive Care Leave Fund, a special fund created in the State treasury, and used for the enforcement of this Act.

(c) The Attorney General may bring an action to enforce the collection of any civil penalty imposed under this Act.

#### Section 25. Enforcement.

(a) An employee who believes his or her rights under this Act or any rule adopted under this Act have been violated may, within 60 days after the date of the last event constituting the alleged violation for which the action is brought, file a complaint with the Department or file a civil action.

(b) An employer that violates any provision of this Act or any rule adopted under this Act is subject to a civil penalty for each employee affected not to exceed \$5,000. Any continuous period of time that any child of an employee is a patient in a neonatal intensive care unit, during which time the employer is found to have violated the employee's rights under this Act, shall constitute a single violation.

(c) A civil action may be brought in the circuit court by an employee to enforce this Act. The circuit court may enjoin any act or practice that violates or may violate this Act and may order any other equitable relief that is necessary and appropriate to redress the violation or to enforce the Act.

Section 90. The State Finance Act is amended by adding Section 5.1030 as follows:

(30 ILCS 105/5.1030 new)

Sec. 5.1030. The Neonatal Intensive Care Leave Fund.