

1 AN ACT concerning employment.

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

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

6 Section 5. Definitions. As used in this Act:

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

10 "Department" means the Department of Labor.

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

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

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

20 Section 10. Neonatal intensive care family leave.

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

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

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

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

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

16 Section 15. Unlawful employer practices.

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

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

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

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

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

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

8 Section 20. Department responsibilities.

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

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

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

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

13 Section 25. Enforcement.

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

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

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

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

8 (30 ILCS 105/5.1030 new)

9 Sec. 5.1030. The Neonatal Intensive Care Leave Fund.