



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5294

Introduced 2/9/2024, by Rep. Laura Faver Dias

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.1015 new

Creates the Family Neonatal Intensive Care Leave Act. Provides that all employees shall be entitled to use a maximum of 10 days of unpaid neonatal intensive care leave while a child of the employee is a patient in a neonatal intensive care unit. Provides that an employer shall not require that an employee use leave the employee is entitled to under the Family Medical Leave Act instead of leave the employee is entitled to under the Act. Sets forth provisions concerning unlawful employer practices; Department of Labor responsibilities; and enforcement. Amends the State Finance Act to create the Neonatal Intensive Care Leave Fund.

LRB103 37634 SPS 67761 b

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" means eligible employee, as defined by Section
12 101(2) of the federal Family and Medical Leave Act of 1993 (29
13 U.S.C. 2601 et seq.).

14 "Employer" means employer, as defined by Section 101(4) of
15 the federal Family and Medical Leave Act of 1993 (29 U.S.C.
16 2601 et seq.).

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) All employees shall be entitled to use a maximum of 10
22 days of unpaid neonatal intensive care leave while a child of

1 the employee is a patient in a neonatal intensive care unit.

2 (b) An employer shall not require that an employee use
3 leave the employee is entitled to under the Family Medical
4 Leave Act instead of leave the employee is entitled to under
5 this Act.

6 Section 15. Unlawful employer practices.

7 (a) It is unlawful for any employer to take any adverse
8 action against an employee because the employee (1) exercises
9 rights or attempts to exercise rights under this Act, (2)
10 opposes practices which such employee believes to be in
11 violation of this Act, or (3) supports the exercise of rights
12 of another under this Act.

13 (b) Exercising rights under this Act includes filing an
14 action or instituting or causing to be instituted any
15 proceeding under or related to this Act; providing or agreeing
16 to provide any information in connection with any inquiry or
17 proceeding relating to any right provided under this Act; or
18 testifying to or agreeing to testify in any inquiry or
19 proceeding relating to any right provided under this Act.

20 Section 20. Department responsibilities.

21 (a) The Department shall administer and enforce this Act
22 and adopt rules under the Illinois Administrative Procedure
23 Act for the purpose of this Act. The Department shall have the
24 powers and the parties shall have the rights provided in the

1 Illinois Administrative Procedure Act for contested cases. The
2 Department shall have the power to conduct investigations in
3 connection with the administration and enforcement of this
4 Act, including the power to conduct depositions and discovery
5 and to issue subpoenas. If the Department finds cause to
6 believe that this Act has been violated, the Department shall
7 notify the parties in writing and the matter shall be referred
8 to an administrative law judge to schedule a formal hearing in
9 accordance with hearing procedures established by rule.

10 (b) The Department is authorized to impose civil penalties
11 prescribed in Section 25 in administrative proceedings that
12 comply with the Illinois Administrative Procedure Act and to
13 supervise the payment of the unpaid wages and damages owing to
14 the employee or employees under this Act. The Department may
15 bring any legal action necessary to recover the amount of
16 unpaid wages, damages, and penalties, and the employer shall
17 be required to pay the costs. Any sums recovered by the
18 Department on behalf of an employee under this Act shall be
19 paid to the employee or employees affected. However, 20% of
20 any penalty collected from the employer for a violation of
21 this Act shall be deposited into the Neonatal Intensive Care
22 Leave Fund, a special fund created in the State treasury, and
23 used for the enforcement of this Act.

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

1 Section 25. Enforcement.

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

7 (b) An employer that violates any provision of this Act or
8 any rule adopted under this Act is subject to a civil penalty
9 for each employee affected as follows:

10 (1) first offense, a civil penalty not to exceed \$500;

11 (2) second or subsequent offense, a civil penalty not
12 to exceed \$1,000.

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

18 Section 90. The State Finance Act is amended by adding
19 Section 5.1015 as follows:

20 (30 ILCS 105/5.1015 new)

21 Sec. 5.1015. The Neonatal Intensive Care Leave Fund.