

SB1238



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1238

Introduced 2/11/2015, by Sen. Napoleon Harris, III

SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Family Care Provider Act. Provides that an employer must provide up to 12 weeks of unpaid family medical leave to an employee during any 12-month period for one or more of these purposes: the birth or adoption of a grandchild in order for the employee to care for such grandchild; because of the placement of a grandchild with the employee for adoption or foster care; or in order for the employee to care for a grandchild if such grandchild has a serious health condition or the employee to care for a grandparent if such grandparent has a serious health condition. Contains provisions concerning notification and certification. Authorizes an employee to file a civil action for enforcement. Effective immediately.

LRB099 09055 JLS 29244 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning business.

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
5 Illinois Family Care Provider Act.

6 Section 5. Findings and purpose.

7 (a) Findings. The General Assembly finds that:

8 (1) the number of households in Illinois in which
9 working grandparents have primary responsibility for the
10 care of grandchildren is significant; currently, almost
11 100,000 grandparents are responsible for the care of
12 grandchildren living with them, and of these, 68% are under
13 the age of 60;

14 (2) in Illinois, over 230,000 children under the age of
15 18 live in homes with grandparents as the householders;

16 (3) the number of households in which grandchildren
17 have primary responsibility for the care of grandparents
18 and other family members is significant; in fact,
19 grandchildren comprise 8% of informal caregivers
20 nationally;

21 (4) it is important for the family unit that
22 grandparents and grandchildren be able to participate in
23 the care of family members who have serious health

1 conditions; and

2 (5) the lack of employment policies to accommodate
3 working caregivers, including employees caring for
4 grandchildren or grandparents, can force individuals to
5 choose between job security and caregiving
6 responsibilities.

7 (b) Purpose. It is the purpose of this Act that all
8 employers required to comply with the Family and Medical Leave
9 Act of 1993, 29 U.S.C. 2601 et seq., shall include grandparents
10 and grandchildren as "eligible employees" for leave for the
11 birth or adoption of a grandchild in order for a grandparent to
12 care for such grandchild; because of the placement of a
13 grandchild with the grandparent for adoption or foster care;
14 and in order for the grandparent to care for the grandchild if
15 such grandchild has a serious health condition or the
16 grandchild to care for the grandparent if such grandparent has
17 a serious health condition.

18 Section 10. Definitions. In this Act:

19 "Eligible employee" has the meaning ascribed to that term
20 in the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et
21 seq.

22 "Employer" has the meaning ascribed to that term in the
23 Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.

24 "Grandchild" means a biological, adopted, or step
25 grandchild of an employee.

1 "Grandparent" means a biological, adopted, or step
2 grandparent of an employee.

3 "Serious health condition" has the meaning ascribed to that
4 term in the Family and Medical Leave Act of 1993, 29 U.S.C.
5 2601 et seq.

6 Section 15. Family leave requirement.

7 (a) Subject to the conditions set forth in this Section, an
8 employee is entitled to receive and an employer shall provide
9 up to 12 weeks of unpaid family medical leave to an employee
10 during any 12-month period for one or more of the following:
11 the birth or adoption of a grandchild in order for the employee
12 to care for such grandchild; the placement of a grandchild with
13 the employee for adoption or foster care; or the employee to
14 care for a grandchild if such grandchild has a serious health
15 condition or the employee to care for a grandparent if the
16 grandparent has a serious health condition.

17 (b) An employee is not entitled to receive and an employer
18 is not required to provide more than 12 weeks of unpaid family
19 medical leave in any 12-month period under this Act. For
20 purposes of this Act, unpaid family medical leave granted
21 pursuant to any other law shall be deemed to be unpaid family
22 medical leave granted under this Act.

23 Section 20. Notification. An employee must comply with the
24 employer's usual and customary procedural requirements for

1 giving notice of a request for leave, provided that those
2 notice requirements are consistent with the Family and Medical
3 Leave Act of 1993, 29 U.S.C. 2601 et seq.

4 Section 25. Certification. An employer may require that an
5 employee's leave to care for a grandchild or grandparent, with
6 a serious health condition, be supported by a certification
7 issued by the health care provider of the employee's grandchild
8 or grandparent. Certification under this Section shall comply
9 with the certification content and requirements provided in 29
10 C.F.R. 825.305 et seq.

11 Section 30. Enforcement. A civil action may be brought in
12 the circuit court having jurisdiction by an employee to enforce
13 this Act. The circuit court may enjoin any act or practice that
14 violates or may violate this Act and may order any other
15 equitable relief that is necessary and appropriate to redress
16 the violation or to enforce this Act.

17 Section 35. Refusal to pay damages. Any employer who has
18 been ordered by the court to pay damages under this Act is
19 liable for:

20 (1) damages equal to the amount of wages, salary,
21 employment benefits, public assistance, or other
22 compensation denied or lost to such individual by reason of
23 the violation and the interest on that amount calculated at

1 the prevailing rate;

2 (2) such equitable relief as may be appropriate,
3 including employment reinstatement and promotion; and

4 (3) reasonable attorney's fees, reasonable expert
5 witness fees, and other costs of the action to be paid by
6 the respondent to the prevailing employee.

7 Section 40. Interpretation. Except as otherwise provided
8 in this Act, all general requirements for leave, employment,
9 benefits, and other provisions shall be interpreted in a manner
10 consistent with the Family and Medical Leave Act of 1993, 29
11 U.S.C. 2601 et seq.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.