

1 AN ACT concerning employment.

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

4 ARTICLE I. SHORT TITLE, FINDINGS AND PURPOSES, GENERAL
5 REQUIREMENTS FOR LEAVE

6 Section 100. Short title. This Act may be cited as the
7 Illinois Family and Medical Leave Act.

8 Section 100.1. Findings and purposes.

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

10 (1) the number of single-parent households and
11 two-parent households in which the single parent or both
12 parents work is increasing significantly;

13 (2) it is important for the development of children
14 and the family unit that fathers and mothers be able to
15 participate in early childrearing and the care of family
16 members who have serious health conditions;

17 (3) the lack of employment policies to accommodate
18 working parents can force individuals to choose between
19 job security and parenting;

20 (4) there is inadequate job security for employees
21 who have serious health conditions that prevent them from
22 working for temporary periods;

23 (5) due to the nature of the roles of men and women
24 in our society, the primary responsibility for family
25 caretaking often falls on women, and such responsibility
26 affects the working lives of women more than it affects
27 the working lives of men; and

28 (6) employment standards that apply to one gender
29 only have serious potential for encouraging employers to
30 discriminate against employees and applicants for

1 employment who are of that gender.

2 (b) Purposes. It is the purpose of this Act:

3 (1) to balance the demands of the workplace with the
4 needs of families, to promote the stability and economic
5 security of families, and to promote national interests
6 in preserving family integrity;

7 (2) to entitle employees to take reasonable leave
8 for medical reasons, for the birth or adoption of a
9 child, and for the care of a child, spouse, or parent who
10 has a serious health condition;

11 (3) to accomplish the purposes described in
12 paragraphs (1) and (2) in a manner that accommodates the
13 legitimate interests of employers;

14 (4) to accomplish the purposes described in
15 paragraphs (1) and (2) in a manner that, consistent with
16 the Equal Protection Clause of the Fourteenth Amendment,
17 minimizes the potential for employment discrimination on
18 the basis of sex by ensuring generally that leave is
19 available for eligible medical reasons (including
20 maternity-related disability) and for compelling family
21 reasons, on a gender-neutral basis; and

22 (5) to promote the goal of equal employment
23 opportunity for women and men, pursuant to such clause.

24 Section 101. Definitions. As used in this Article:

25 (1) (Blank).

26 (2) Eligible Employee.

27 (A) In General. The term "eligible employee" means
28 an employee who has been employed:

29 (i) for at least 12 months by the employer with
30 respect to whom leave is requested under Section
31 102; and

32 (ii) for at least 1,250 hours of service with
33 such employer during the previous 12-month period.

1 (B) Exclusions. The term "eligible employee" does
2 not include:

3 (i) any Federal officer or employee covered
4 under Subchapter V of Chapter 63 of Title 5, United
5 States Code; or

6 (ii) any employee of an employer who is
7 employed at a worksite at which such employer
8 employs less than 25 employees if the total number
9 of employees employed by that employer within 75
10 miles of that worksite is less than 25.

11 (C) Determination. For purposes of determining
12 whether an employee meets the hours of service
13 requirement specified in subparagraph (A)(ii), the legal
14 standards established under Section 7 of the Fair Labor
15 Standards Act of 1938 (29 U.S.C. 207) shall apply.

16 (3) Employ; Employee; State. The terms "employ",
17 "employee", and "State" have the same meanings given such
18 terms in subsections (c), (e), and (g) of Section 3 of the
19 Fair Labor Standards Act of 1938 (29 U.S.C. 203 (c), (e), and
20 (g)).

21 (4) Employer.

22 (A) In general. The term "employer":

23 (i) means any person who employs 25 or more
24 employees for each working day during each of 20 or
25 more calendar workweeks in the current or preceding
26 calendar year;

27 (ii) includes:

28 (I) any person who acts, directly or
29 indirectly, in the interest of an employer to
30 any of the employees of such employer; and

31 (II) any successor in interest of an
32 employer; and

33 (iii) includes any State officer, department,
34 or agency, any unit of local government, and any

1 school district.

2 (B) (Blank).

3 (5) Employment benefits. The term "employment benefits"
4 means all benefits provided or made available to employees by
5 an employer, including group life insurance, health
6 insurance, disability insurance, sick leave, annual leave,
7 educational benefits, and pensions, regardless of whether
8 such benefits are provided by a practice or written policy of
9 an employer or through an "employee benefit plan", as defined
10 in Section 3(3) of the Employee Retirement Income Security
11 Act of 1974 (29 U.S.C. 1002(3)).

12 (6) Health care provider. The term "health care provider"
13 means:

14 (A) a doctor of medicine or osteopathy who is
15 authorized to practice medicine or surgery (as
16 appropriate) by the State in which the doctor practices;
17 or

18 (B) any other person determined by the Director to
19 be capable of providing health care services.

20 (7) Parent. The term "parent" means the biological parent
21 of an employee or an individual who stood in loco parentis to
22 an employee when the employee was a son or daughter.

23 (8) Person. The term "person" has the same meaning given
24 such term in Section 3(a) of the Fair Labor Standards Act of
25 1938 (29 U.S.C. 203(a)).

26 (9) Reduced leave schedule. The term "reduced leave
27 schedule" means a leave schedule that reduces the usual
28 number of hours per workweek, or hours per workday, of an
29 employee.

30 (10) Director. The term "Director" means the Director of
31 Labor.

32 (11) Serious health condition. The term "serious health
33 condition" means an illness, injury, impairment, or physical
34 or mental condition that involves:

1 (A) inpatient care in a hospital, hospice, or
2 residential medical care facility; or

3 (B) continuing treatment by a health care provider.

4 (12) Son or daughter. The term "son or daughter" means a
5 biological, adopted, or foster child, a stepchild, a legal
6 ward, or a child of a person standing in loco parentis, who
7 is:

8 (A) under 18 years of age; or

9 (B) 18 years of age or older and incapable of
10 self-care because of a mental or physical disability.

11 (13) Spouse. The term "spouse" means a husband or wife,
12 as the case may be.

13 Section 102. Leave requirement.

14 (a) In general.

15 (1) Entitlement to leave. Subject to Section 103, an
16 eligible employee shall be entitled to a total of 12
17 workweeks of leave during any 12-month period for one or
18 more of the following:

19 (A) Because of the birth of a son or daughter
20 of the employee and in order to care for such son or
21 daughter.

22 (B) Because of the placement of a son or
23 daughter with the employee for adoption or foster
24 care.

25 (C) In order to care for the spouse, or a son,
26 daughter, or parent, of the employee, if such
27 spouse, son, daughter, or parent has a serious
28 health condition.

29 (D) Because of a serious health condition that
30 makes the employee unable to perform the functions
31 of the position of such employee.

32 (2) Expiration of entitlement. The entitlement to
33 leave under subparagraphs (A) and (B) of paragraph (1)

1 for a birth or placement of a son or daughter shall
2 expire at the end of the 12-month period beginning on the
3 date of such birth or placement.

4 (b) Leave taken intermittently or on a reduced leave
5 schedule.

6 (1) In general. Leave under subparagraph (A) or (B)
7 of subsection (a)(1) shall not be taken by an employee
8 intermittently or on a reduced leave schedule unless the
9 employee and the employer of the employee agree
10 otherwise. Subject to paragraph (2), subsection (e)(2),
11 and Section 103(b)(5), leave under subparagraph (C) or
12 (D) of subsection (a)(1) may be taken intermittently or
13 on a reduced leave schedule when medically necessary. The
14 taking of leave intermittently or on a reduced leave
15 schedule pursuant to this paragraph shall not result in a
16 reduction in the total amount of leave to which the
17 employee is entitled under subsection (a) beyond the
18 amount of leave actually taken.

19 (2) Alternative position. If an employee requests
20 intermittent leave, or leave on a reduced leave schedule,
21 under subparagraph (C) or (D) of subsection (a)(1), that
22 is foreseeable based on planned medical treatment, the
23 employer may require such employee to transfer
24 temporarily to an available alternative position offered
25 by the employer for which the employee is qualified and
26 that:

- 27 (A) has equivalent pay and benefits; and
- 28 (B) better accommodates recurring periods of
29 leave than the regular employment position of the
30 employee.

31 (c) Unpaid leave permitted. Except as provided in
32 subsection (d), leave granted under subsection (a) may
33 consist of unpaid leave. Where an employee is otherwise
34 exempt under regulations issued by the Secretary of the U.S.

1 Department of Labor pursuant to Section 13(a)(1) of the Fair
2 Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the
3 compliance of an employer with this Article by providing
4 unpaid leave shall not affect the exempt status of the
5 employee under such Section.

6 (d) Relationship to paid leave.

7 (1) Unpaid leave. If an employer provides paid leave
8 for fewer than 12 workweeks, the additional weeks of
9 leave necessary to attain the 12 workweeks of leave
10 required under this Article may be provided without
11 compensation.

12 (2) Substitution of paid leave.

13 (A) In general. An eligible employee may elect,
14 or an employer may require the employee, to
15 substitute any of the accrued paid vacation leave,
16 personal leave, or family leave of the employee for
17 leave provided under subparagraph (A), (B), or (C)
18 of subsection (a)(1) for any part of the 12-week
19 period of such leave under such subsection.

20 (B) Serious health condition. An eligible
21 employee may elect, or an employer may require the
22 employee, to substitute any of the accrued paid
23 vacation leave, personal leave, or medical or sick
24 leave of the employee for leave provided under
25 subparagraph (C) or (D) of subsection (a)(1) for any
26 part of the 12-week period of such leave under such
27 subsection, except that nothing in this Article
28 shall require an employer to provide paid sick leave
29 or paid medical leave in any situation in which
30 such employer would not normally provide any such
31 paid leave.

32 (e) Foreseeable leave.

33 (1) Requirement of notice. In any case in which the
34 necessity for leave under subparagraph (A) or (B) of

1 subsection (a)(1) is foreseeable based on an expected
2 birth or placement, the employee shall provide the
3 employer with not less than 30 days' notice, before the
4 date the leave is to begin, of the employee's intention
5 to take leave under such subparagraph, except that if the
6 date of the birth or placement requires leave to begin
7 in less than 30 days, the employee shall provide such
8 notice as is practicable.

9 (2) Duties of employee. In any case in which the
10 necessity for leave under subparagraph (C) or (D) of
11 subsection (a)(1) is foreseeable based on planned medical
12 treatment, the employee:

13 (A) shall make a reasonable effort to schedule
14 the treatment so as not to disrupt unduly the
15 operations of the employer, subject to the approval
16 of the health care provider of the employee or the
17 health care provider of the son, daughter, spouse,
18 or parent of the employee, as appropriate; and

19 (B) shall provide the employer with not less
20 than 30 days' notice, before the date the leave is
21 to begin, of the employee's intention to take leave
22 under such subparagraph, except that if the date of
23 the treatment requires leave to begin in less than
24 30 days, the employee shall provide such notice as
25 is practicable.

26 (f) Spouses employed by the same employer. In any case in
27 which a husband and wife entitled to leave under subsection
28 (a) are employed by the same employer, the aggregate number
29 of workweeks of leave to which both may be entitled may be
30 limited to 12 workweeks during any 12-month period, if such
31 leave is taken:

32 (1) under subparagraph (A) or (B) of subsection
33 (a)(1); or

34 (2) to care for a sick parent under subparagraph (C)

1 of such subsection.

2 Section 103. Certification.

3 (a) In general. An employer may require that a request
4 for leave under subparagraph (C) or (D) of Section 102(a)(1)
5 be supported by a certification issued by the health care
6 provider of the eligible employee or of the son, daughter,
7 spouse, or parent of the employee, as appropriate. The
8 employee shall provide, in a timely manner, a copy of such
9 certification to the employer.

10 (b) Sufficient certification. Certification provided
11 under subsection (a) shall be sufficient if it states:

12 (1) the date on which the serious health condition
13 commenced;

14 (2) the probable duration of the condition;

15 (3) the appropriate medical facts within the
16 knowledge of the health care provider regarding the
17 condition;

18 (4)(A) for purposes of leave under Section
19 102(a)(1)(C), a statement that the eligible employee is
20 needed to care for the son, daughter, spouse, or parent
21 and an estimate of the amount of time that such employee
22 is needed to care for the son, daughter, spouse, or
23 parent; and

24 (B) for purposes of leave under Section
25 102(a)(1)(D), a statement that the employee is unable to
26 perform the functions of the position of the employee;

27 (5) in the case of certification for intermittent
28 leave, or leave on a reduced leave schedule, for planned
29 medical treatment, the dates on which such treatment is
30 expected to be given and the duration of such treatment;

31 (6) in the case of certification for intermittent
32 leave, or leave on a reduced leave schedule, under
33 Section 102(a)(1)(D), a statement of the medical

1 necessity for the intermittent leave or leave on a
2 reduced leave schedule, and the expected duration of the
3 intermittent leave or reduced leave schedule; and

4 (7) in the case of certification for intermittent
5 leave, or leave on a reduced leave schedule, under
6 Section 102(a)(1)(C), a statement that the employee's
7 intermittent leave or leave on a reduced leave schedule
8 is necessary for the care of the son, daughter, parent,
9 or spouse who has a serious health condition, or will
10 assist in their recovery, and the expected duration and
11 schedule of the intermittent leave or reduced leave
12 schedule.

13 (c) Second opinion.

14 (1) In general. In any case in which the employer
15 has reason to doubt the validity of the certification
16 provided under subsection (a) for leave under
17 subparagraph (C) or (D) of Section 102(a)(1), the
18 employer may require, at the expense of the employer,
19 that the eligible employee obtain the opinion of a
20 second health care provider designated or approved by the
21 employer concerning any information certified under
22 subsection (b) for such leave.

23 (2) Limitation. A health care provider designated or
24 approved under paragraph (1) shall not be employed on a
25 regular basis by the employer.

26 (d) Resolution of conflicting opinions.

27 (1) In general. In any case in which the second
28 opinion described in subsection (c) differs from the
29 opinion in the original certification provided under
30 subsection (a), the employer may require, at the expense
31 of the employer, that the employee obtain the opinion of
32 a third health care provider designated or approved
33 jointly by the employer and the employee concerning the
34 information certified under subsection (b).

1 (2) Finality. The opinion of the third health care
2 provider concerning the information certified under
3 subsection (b) shall be considered to be final and shall
4 be binding on the employer and the employee.

5 (e) Subsequent recertification. The employer may require
6 that the eligible employee obtain subsequent recertifications
7 on a reasonable basis.

8 Section 104. Employment and benefits protection.

9 (a) Restoration to position.

10 (1) In general. Except as provided in subsection
11 (b), any eligible employee who takes leave under Section
12 102 for the intended purpose of the leave shall be
13 entitled, on return from such leave:

14 (A) to be restored by the employer to the
15 position of employment held by the employee when the
16 leave commenced; or

17 (B) to be restored to an equivalent position
18 with equivalent employment benefits, pay, and other
19 terms and conditions of employment.

20 (2) Loss of benefits. The taking of leave under
21 Section 102 shall not result in the loss of any
22 employment benefit accrued prior to the date on which the
23 leave commenced.

24 (3) Limitations. Nothing in this Section shall be
25 construed to entitle any restored employee to:

26 (A) the accrual of any seniority or employment
27 benefits during any period of leave; or

28 (B) any right, benefit, or position of
29 employment other than any right, benefit, or
30 position to which the employee would have been
31 entitled had the employee not taken the leave.

32 (4) Certification. As a condition of restoration
33 under paragraph (1) for an employee who has taken leave

1 under Section 102(a)(1)(D), the employer may have a
2 uniformly applied practice or policy that requires each
3 such employee to receive certification from the health
4 care provider of the employee that the employee is able
5 to resume work, except that nothing in this paragraph
6 shall supersede a valid State or local law or a
7 collective bargaining agreement that governs the return
8 to work of such employees.

9 (5) Construction. Nothing in this subsection shall
10 be construed to prohibit an employer from requiring an
11 employee on leave under Section 102 to report
12 periodically to the employer on the status and intention
13 of the employee to return to work.

14 (b) Exemption concerning certain highly compensated
15 employees.

16 (1) Denial of restoration. An employer may deny
17 restoration under subsection (a) to any eligible employee
18 described in paragraph (2) if:

19 (A) such denial is necessary to prevent
20 substantial and grievous economic injury to the
21 operations of the employer;

22 (B) the employer notifies the employee of the
23 intent of the employer to deny restoration on such
24 basis at the time the employer determines that such
25 injury would occur; and

26 (C) in any case in which the leave has
27 commenced, the employee elects not to return to
28 employment after receiving such notice.

29 (2) Affected employees. An eligible employee
30 described in paragraph (1) is a salaried eligible
31 employee who is among the highest paid 10 percent of the
32 employees employed by the employer within 75 miles of the
33 facility at which the employee is employed.

34 (c) Maintenance of health benefits.

1 (1) Coverage. Except as provided in paragraph (2),
2 during any period that an eligible employee takes leave
3 under Section 102, the employer shall maintain coverage
4 under any "group health plan" (as defined in Section
5 5000(b)(1) of the Internal Revenue Code of 1986) for the
6 duration of such leave at the level and under the
7 conditions coverage would have been provided if the
8 employee had continued in employment continuously for the
9 duration of such leave.

10 (2) Failure to return from leave. The employer may
11 recover the premium that the employer paid for
12 maintaining coverage for the employee under such group
13 health plan during any period of unpaid leave under
14 Section 102 if:

15 (A) the employee fails to return from leave
16 under Section 102 after the period of leave to which
17 the employee is entitled has expired; and

18 (B) the employee fails to return to work for a
19 reason other than:

20 (i) the continuation, recurrence, or onset
21 of a serious health condition that entitles the
22 employee to leave under subparagraph (C) or (D)
23 of Section 102(a)(1); or

24 (ii) other circumstances beyond the
25 control of the employee.

26 (3) Certification.

27 (A) Issuance. An employer may require that a
28 claim that an employee is unable to return to work
29 because of the continuation, recurrence, or onset of
30 the serious health condition described in paragraph
31 (2)(B)(i) be supported by:

32 (i) a certification issued by the health
33 care provider of the son, daughter, spouse, or
34 parent of the employee, as appropriate, in the

1 case of an employee unable to return to work
2 because of a condition specified in Section
3 102(a)(1)(C); or

4 (ii) a certification issued by the health
5 care provider of the eligible employee, in the
6 case of an employee unable to return to work
7 because of a condition specified in Section
8 102(a)(1)(D).

9 (B) Copy. The employee shall provide, in a
10 timely manner, a copy of such certification to the
11 employer.

12 (C) Sufficiency of certification.

13 (i) Leave due to serious health condition
14 of employee. The certification described in
15 subparagraph (A)(ii) shall be sufficient if the
16 certification states that a serious health
17 condition prevented the employee from being
18 able to perform the functions of the position
19 of the employee on the date that the leave of
20 the employee expired.

21 (ii) Leave due to serious health condition
22 of family member. The certification described
23 in subparagraph (A)(i) shall be sufficient if
24 the certification states that the employee is
25 needed to care for the son, daughter, spouse,
26 or parent who has a serious health condition on
27 the date that the leave of the employee
28 expired.

29 Section 105. Prohibited Acts.

30 (a) Interference with rights.

31 (1) Exercise of rights. It shall be unlawful for any
32 employer to interfere with, restrain, or deny the
33 exercise of or the attempt to exercise, any right

1 provided under this Article.

2 (2) Discrimination. It shall be unlawful for any
3 employer to discharge or in any other manner discriminate
4 against any individual for opposing any practice made
5 unlawful by this Article.

6 (b) Interference with proceedings or inquiries. It shall
7 be unlawful for any person to discharge or in any other
8 manner discriminate against any individual because such
9 individual:

10 (1) has filed any charge, or has instituted or
11 caused to be instituted any proceeding, under or related
12 to this Article;

13 (2) has given, or is about to give, any information
14 in connection with any inquiry or proceeding relating to
15 any right provided under this Article; or

16 (3) has testified, or is about to testify, in any
17 inquiry or proceeding relating to any right provided
18 under this Article.

19 Section 106. Investigative authority.

20 (a) In general. To ensure compliance with the provisions
21 of this Article, or any rule or order issued under this
22 Article, the Director shall have, subject to subsection (c),
23 the authority to investigate complaints.

24 (b) Obligation to keep and preserve records. Any employer
25 shall make, keep, and preserve records pertaining to
26 compliance with this Article in accordance with rules adopted
27 by the Director.

28 (c) Required submissions generally limited to an annual
29 basis. The Director shall not under the authority of this
30 Section require any employer or any plan, fund, or program to
31 submit to the Director any books or records more than once
32 during any 12-month period, unless the Director has
33 reasonable cause to believe there may exist a violation of

1 this Article or any rule or order issued pursuant to this
2 Article, or is investigating a charge pursuant to Section
3 107(b).

4 (d) Subpoena powers. For the purposes of any
5 investigation provided for in this Section, the Director
6 shall have the authority to issue subpoenas.

7 Section 107. Enforcement.

8 (a) Civil action by employees.

9 (1) Liability. Any employer who violates Section 105
10 shall be liable to any eligible employee affected:

11 (A) for damages equal to:

12 (i) the amount of:

13 (I) any wages, salary, employment
14 benefits, or other compensation denied or
15 lost to such employee by reason of the
16 violation; or

17 (II) in a case in which wages,
18 salary, employment benefits, or other
19 compensation have not been denied or lost
20 to the employee, any actual monetary
21 losses sustained by the employee as a
22 direct result of the violation, such as
23 the cost of providing care, up to a sum
24 equal to 12 weeks of wages or salary for
25 the employee;

26 (ii) the interest on the amount described
27 in clause (i) calculated at the rate of
28 interest on judgments set forth in Section
29 2-1303 of the Code of Civil Procedure; and

30 (iii) an additional amount as liquidated
31 damages equal to the sum of the amount
32 described in clause (i) and the interest
33 described in clause (ii), except that if an

1 employer who has violated Section 105 proves to
2 the satisfaction of the court that the act or
3 omission which violated Section 105 was in good
4 faith and that the employer had reasonable
5 grounds for believing that the act or omission
6 was not a violation of Section 105, such court
7 may, in the discretion of the court, reduce the
8 amount of the liability to the amount and
9 interest determined under clauses (i) and (ii),
10 respectively; and

11 (B) for such equitable relief as may be
12 appropriate, including employment, reinstatement,
13 and promotion.

14 (2) Right of action. An action to recover the
15 damages or equitable relief prescribed in paragraph (1)
16 may be maintained against any employer (including a
17 public agency) in the circuit court by any one or more
18 employees for and in behalf of:

19 (A) the employees; or

20 (B) the employees and other employees similarly
21 situated.

22 (3) Fees and costs. The court in such an action
23 shall, in addition to any judgment awarded to the
24 plaintiff, allow a reasonable attorney's fee, reasonable
25 expert witness fees, and other costs of the action to be
26 paid by the defendant.

27 (4) Limitations. The right provided by paragraph (2)
28 to bring an action by or on behalf of any employee shall
29 terminate:

30 (A) on the filing of a complaint by the
31 Director in an action under subsection (d) in which
32 restraint is sought of any further delay in the
33 payment of the amount described in paragraph (1)(A)
34 to such employee by an employer responsible under

1 paragraph (1) for the payment; or

2 (B) on the filing of a complaint by the
3 Director in an action under subsection (b) in which
4 a recovery is sought of the damages described in
5 paragraph (1)(A) owing to an eligible employee by an
6 employer liable under paragraph (1), unless the
7 action described in subparagraph (A) or (B) is
8 dismissed without prejudice on motion of the
9 Director.

10 (b) Action by the Director.

11 (1) Administrative action. The Director shall
12 receive, investigate, and attempt to resolve complaints
13 of violations of Section 105.

14 (2) Civil action. The Director may bring an action
15 in the circuit court to recover the damages described in
16 subsection (a)(1)(A).

17 (3) Sums recovered. Any sums recovered by the
18 Director pursuant to paragraph (2) shall be held in a
19 special deposit account and shall be paid, on order of
20 the Director, directly to each employee affected. Any
21 such sums not paid to an employee because of inability
22 to do so within a period of 3 years shall be deposited
23 into the General Revenue Fund.

24 (c) Limitation.

25 (1) In general. Except as provided in paragraph (2),
26 an action may be brought under this Section not later
27 than 2 years after the date of the last event
28 constituting the alleged violation for which the action
29 is brought.

30 (2) Willful violation. In the case of such action
31 brought for a willful violation of Section 105, such
32 action may be brought within 3 years of the date of the
33 last event constituting the alleged violation for which
34 such action is brought.

1 (3) Commencement. In determining when an action is
 2 commenced by the Director under this Section for the
 3 purposes of this subsection, it shall be considered to be
 4 commenced on the date when the complaint is filed.

5 (d) Action for injunction by Director. The circuit court
 6 shall have jurisdiction, for cause shown, in an action
 7 brought by the Director:

8 (1) to restrain violations of Section 105, including
 9 the restraint of any withholding of payment of wages,
 10 salary, employment benefits, or other compensation, plus
 11 interest, found by the court to be due to eligible
 12 employees; or

13 (2) to award such other equitable relief as may be
 14 appropriate, including employment, reinstatement, and
 15 promotion.

16 Section 108. Special rules concerning employees of local
 17 educational agencies.

18 (a) Application.

19 (1) In general. Except as otherwise provided in this
 20 Section, the rights (including the rights under Section
 21 104, which shall extend throughout the period of leave of
 22 any employee under this Section), remedies, and
 23 procedures under this Article shall apply to:

24 (A) any "local educational agency" (as defined
 25 in Section 1471(12) of the Elementary and Secondary
 26 Education Act of 1965 (20 U.S.C. 2891(12)) and an
 27 eligible employee of the agency; and

28 (B) any private elementary or secondary school
 29 and an eligible employee of the school.

30 (2) Definitions. For purposes of the application
 31 described in paragraph (1):

32 (A) Eligible employee. The term "eligible
 33 employee" means an eligible employee of an agency or

1 school described in paragraph (1).

2 (B) Employer. The term "employer" means an
3 agency or school described in paragraph (1).

4 (b) Leave does not violate certain other federal laws. A
5 local educational agency and a private elementary or
6 secondary school shall not be in violation of the Individuals
7 with Disabilities Education Act (20 U.S.C. 1400 et seq.),
8 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.
9 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C.
10 2000d et seq.), solely as a result of an eligible employee of
11 such agency or school exercising the rights of such employee
12 under this Article.

13 (c) Intermittent leave or leave on a reduced schedule for
14 instructional employees.

15 (1) In general. Subject to paragraph (2), in any
16 case in which an eligible employee employed principally
17 in an instructional capacity by any such educational
18 agency or school requests leave under subparagraph (C) or
19 (D) of Section 102(a)(1) that is foreseeable based on
20 planned medical treatment and the employee would be on
21 leave for greater than 20 percent of the total number of
22 working days in the period during which the leave would
23 extend, the agency or school may require that such
24 employee elect either:

25 (A) to take leave for periods of a particular
26 duration, not to exceed the duration of the planned
27 medical treatment; or

28 (B) to transfer temporarily to an available
29 alternative position offered by the employer for
30 which the employee is qualified, and that:

31 (i) has equivalent pay and benefits; and
32 (ii) better accommodates recurring periods
33 of leave than the regular employment position
34 of the employee.

1 (2) Application. The elections described in
2 subparagraphs (A) and (B) of paragraph (1) shall apply
3 only with respect to an eligible employee who complies
4 with Section 102(e)(2).

5 (d) Rules applicable to periods near the conclusion of an
6 academic term. The following rules shall apply with respect
7 to periods of leave near the conclusion of an academic term
8 in the case of any eligible employee employed principally in
9 an instructional capacity by any such educational agency or
10 school:

11 (1) Leave more than 5 weeks prior to end of term. If
12 the eligible employee begins leave under Section 102 more
13 than 5 weeks prior to the end of the academic term, the
14 agency or school may require the employee to continue
15 taking leave until the end of such term, if:

16 (A) the leave is of at least 3 weeks duration;
17 and

18 (B) the return to employment would occur during
19 the 3-week period before the end of such term.

20 (2) Leave less than 5 weeks prior to end of term. If
21 the eligible employee begins leave under subparagraph
22 (A), (B), or (C) of Section 102(a)(1) during the period
23 that commences 5 weeks prior to the end of the academic
24 term, the agency or school may require the employee to
25 continue taking leave until the end of such term, if:

26 (A) the leave is of greater than 2 weeks
27 duration; and

28 (B) the return to employment would occur during
29 the 2-week period before the end of such term.

30 (3) Leave less than 3 weeks prior to end of term. If
31 the eligible employee begins leave under subparagraph
32 (A), (B), or (C) of Section 102(a)(1) during the period
33 that commences 3 weeks prior to the end of the academic
34 term and the duration of the leave is greater than 5

1 working days, the agency or school may require the
2 employee to continue to take leave until the end of such
3 term.

4 (e) Restoration to equivalent employment position. For
5 purposes of determinations under Section 104(a)(1)(B)
6 (relating to the restoration of an eligible employee to an
7 equivalent position), in the case of a local educational
8 agency or a private elementary or secondary school, such
9 determination shall be made on the basis of established
10 school board policies and practices, private school policies
11 and practices, and collective bargaining agreements.

12 (f) Reduction of the amount of liability. If a local
13 educational agency or a private elementary or secondary
14 school that has violated this Article proves to the
15 satisfaction of the court that the agency, school, or
16 department had reasonable grounds for believing that the
17 underlying act or omission was not a violation of this
18 Article, such court may, in the discretion of the court,
19 reduce the amount of the liability provided for under Section
20 107(a)(1)(A) to the amount and interest determined under
21 clauses (i) and (ii), respectively, of such Section.

22 Section 109. Notice.

23 (a) In general. Each employer shall post and keep posted,
24 in conspicuous places on the premises of the employer where
25 notices to employees and applicants for employment are
26 customarily posted, a notice, to be prepared or approved by
27 the Director, setting forth excerpts from, or summaries of,
28 the pertinent provisions of this Article and information
29 pertaining to the filing of a charge.

30 (b) Penalty. Any employer that willfully violates this
31 Section may be assessed a civil money penalty not to exceed
32 \$100 for each separate offense.

1 ARTICLE II. (BLANK)

2 ARTICLE III.(BLANK)

3 ARTICLE IV. MISCELLANEOUS PROVISIONS

4 Section 401. Effect on other laws.

5 (a) Federal and State antidiscrimination laws. Nothing in
6 this Act shall be construed to modify or affect any Federal
7 or State law prohibiting discrimination on the basis of
8 race, religion, color, national origin, sex, age, or
9 disability.

10 (b) State and local laws. Nothing in this Act shall be
11 construed to supersede any provision of any State or local
12 law that provides greater family or medical leave rights than
13 the rights established under this Act.

14 Section 402. Effect on existing employment benefits.

15 (a) More protective. Nothing in this Act shall be
16 construed to diminish the obligation of an employer to comply
17 with any collective bargaining agreement or any employment
18 benefit program or plan that provides greater family or
19 medical leave rights to employees than the rights established
20 under this Act.

21 (b) Less protective. The rights established for employees
22 under this Act shall not be diminished by any collective
23 bargaining agreement or any employment benefit program or
24 plan.

25 Section 403. Encouragement of more generous leave
26 policies. Nothing in this Act shall be construed to
27 discourage employers from adopting or retaining leave
28 policies more generous than any policies that comply with the
29 requirements under this Act.

1 Section 404. Rules. The Director shall prescribe such
2 rules as are necessary to carry out this Act not later than
3 120 days after the effective date of this Act.

4 Section 404.1. Applicability.

5 (1) In the case of a collective bargaining agreement in
6 effect on the effective date of this Act, Article I shall
7 apply on the earlier of:

8 (A) the date of the termination of such agreement;

9 or

10 (B) the date that occurs 12 months after the
11 effective date of this Act.

12 (2) Nothing in this Act shall be construed to limit the
13 applicability of the federal Family and Medical Leave Act of
14 1993 with regard to employers and employees covered by that
15 Act.

16 Section 405. Effective date. This Act shall take effect 6
17 months after it becomes law.