



Sen. Martin A. Sandoval

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1 AMENDMENT TO SENATE BILL 3239

2 AMENDMENT NO. _____. Amend Senate Bill 3239 by replacing
3 everything after the enacting clause with the following:

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 101. Definitions. As used in this Article:

9 (1) (Blank).

10 (2) Eligible Employee.

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

13 (i) for at least 12 months by the employer with
14 respect to whom leave is requested under Section 102;

15 and

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

3 (B) Exclusions. The term "eligible employee" does not
4 include:

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

8 (ii) any employee of an employer who is employed at
9 a work site at which such employer employs less than 50
10 employees if the total number of employees employed by
11 that employer within 75 miles of that work site is less
12 than 50.

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

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

22 (4) Employer.

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

24 (i) means any person who employs 50 or more
25 employees for each working day during each of 20 or
26 more calendar workweeks in the current or preceding

1 calendar year;

2 (ii) includes:

3 (I) any person who acts, directly or
4 indirectly, in the interest of an employer to any
5 of the employees of such employer; and

6 (II) any successor in interest of an employer;
7 and

8 (iii) includes any State officer, department, or
9 agency, any unit of local government, and any school
10 district.

11 (B) (Blank).

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

21 (6) Health care provider. The term "health care provider"
22 means a doctor of medicine or osteopathy who is authorized to
23 practice medicine or surgery (as appropriate) by the State in
24 which the doctor practices.

25 (7) Parent. The term "parent" means the biological parent
26 of an employee or an individual who stood in loco parentis to

1 an employee when the employee was a son or daughter.

2 (8) Person. The term "person" has the same meaning given
3 such term in Section 3(a) of the Fair Labor Standards Act of
4 1938 (29 U.S.C. 203(a)).

5 (9) Reduced leave schedule. The term "reduced leave
6 schedule" means a leave schedule that reduces the usual number
7 of hours per workweek, or hours per workday, of an employee.

8 (10) (Blank).

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

12 (A) inpatient care in a hospital, hospice, or
13 residential medical care facility; or

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

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

18 (A) under 18 years of age; or

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

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

23 (14) Domestic partner. The term "domestic partner" means a
24 single, unmarried adult person of the same sex as the employee
25 who is in a committed, intimate relationship with the employee,
26 is not a domestic partner to any other person, and who is

1 designated to the employer by such employee as that employee's
2 domestic partner.

3 ` (23) Sibling. The term "sibling" means any person who is a
4 son or daughter of an employee's parent.

5 Section 102. Leave requirement.

6 (a) In general.

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

11 (A) Because of the birth of a son or daughter of
12 the employee and in order to care for such son or
13 daughter.

14 (B) Because of the placement of a son or daughter
15 with the employee for adoption or foster care.

16 (C) In order to care for the spouse, or a son,
17 daughter, parent, son-in-law, daughter-in-law,
18 father-in-law, mother-in-law, domestic partner, or
19 sibling of the employee, if such spouse, son, daughter,
20 parent, son-in-law, daughter-in-law, father-in-law,
21 mother-in-law, domestic partner, or sibling has a
22 serious health condition.

23 (D) Because of a serious health condition that
24 makes the employee unable to perform the functions of
25 the position of such employee.

1 (2) Expiration of entitlement. The entitlement to
2 leave under subparagraphs (A) and (B) of paragraph (1) for
3 a birth or placement of a son or daughter shall expire at
4 the end of the 12-month period beginning on the date of
5 such birth or placement.

6 (b) Leave taken intermittently or on a reduced leave
7 schedule.

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

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

1 employer for which the employee is qualified and that:

2 (A) has equivalent pay and benefits; and

3 (B) better accommodates recurring periods of leave
4 than the regular employment position of the employee.

5 (c) Unpaid leave permitted. Except as provided in
6 subsection (d), leave granted under subsection (a) may consist
7 of unpaid leave. Where an employee is otherwise exempt under
8 regulations issued by the Secretary of the U.S. Department of
9 Labor pursuant to Section 13(a)(1) of the Fair Labor Standards
10 Act of 1938 (29 U.S.C. 213(a)(1)), the compliance of an
11 employer with this Article by providing unpaid leave shall not
12 affect the exempt status of the employee under such Section.

13 (d) Relationship to paid leave.

14 (1) Unpaid leave. If an employer provides paid leave
15 for fewer than 12 workweeks, the additional weeks of leave
16 necessary to attain the 12 workweeks of leave required
17 under this Article may be provided without compensation.

18 (2) Substitution of paid leave.

19 (A) In general. An eligible employee may elect, or
20 an employer may require the employee, to substitute any
21 of the accrued paid vacation leave, personal leave, or
22 family leave of the employee for leave provided under
23 subparagraph (A), (B), or (C) of subsection (a)(1) for
24 any part of the 12-week period of such leave under such
25 subsection.

26 (B) Serious health condition. An eligible employee

1 may elect, or an employer may require the employee, to
2 substitute any of the accrued paid vacation leave,
3 personal leave, or medical or sick leave of the
4 employee for leave provided under subparagraph (C) or
5 (D) of subsection (a)(1) for any part of the 12-week
6 period of such leave under such subsection, except that
7 nothing in this Article shall require an employer to
8 provide paid sick leave or paid medical leave in any
9 situation in which such employer would not normally
10 provide any such paid leave.

11 (e) Foreseeable leave.

12 (1) Requirement of notice. In any case in which the
13 necessity for leave under subparagraph (A) or (B) of
14 subsection (a)(1) is foreseeable based on an expected birth
15 or placement, the employee shall provide the employer with
16 not less than 30 days' notice, before the date the leave is
17 to begin, of the employee's intention to take leave under
18 such subparagraph, except that if the date of the birth or
19 placement requires leave to begin in less than 30 days, the
20 employee shall provide such notice as is practicable.

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

25 (A) shall make a reasonable effort to schedule the
26 treatment so as not to disrupt unduly the operations of

1 the employer, subject to the approval of the health
2 care provider of the employee or the health care
3 provider of the son, daughter, spouse, parent,
4 son-in-law, daughter-in-law, father-in-law,
5 mother-in-law, domestic partner, or sibling of the
6 employee, as appropriate; and

7 (B) shall provide the employer with not less than
8 30 days' notice, before the date the leave is to begin,
9 of the employee's intention to take leave under such
10 subparagraph, except that if the date of the treatment
11 requires leave to begin in less than 30 days, the
12 employee shall provide such notice as is practicable.

13 (f) Spouses employed by the same employer. In any case in
14 which a husband and wife entitled to leave under subsection (a)
15 are employed by the same employer, the aggregate number of
16 workweeks of leave to which both may be entitled may be limited
17 to 12 workweeks during any 12-month period, if such leave is
18 taken:

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

20 or

21 (2) to care for a sick parent under subparagraph (C) of
22 such subsection.

23 Section 103. Certification.

24 (a) In general. An employer may require that a request for
25 leave under subparagraph (C) or (D) of Section 102(a) (1) be

1 supported by a certification issued by the health care provider
2 of the eligible employee or of the son, daughter, spouse,
3 parent, son-in-law, daughter-in-law, father-in-law,
4 mother-in-law, domestic partner, or sibling of the employee, as
5 appropriate. The employee shall provide, in a timely manner, a
6 copy of such certification to the employer.

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

9 (1) the date on which the serious health condition
10 commenced;

11 (2) the probable duration of the condition;

12 (3) the appropriate medical facts within the knowledge
13 of the health care provider regarding the condition;

14 (4) (A) for purposes of leave under Section
15 102(a)(1)(C), a statement that the eligible employee is
16 needed to care for the son, daughter, spouse, parent,
17 son-in-law, daughter-in-law, father-in-law, mother-in-law,
18 domestic partner, or sibling and an estimate of the amount
19 of time that such employee is needed to care for the son,
20 daughter, spouse, parent, son-in-law, daughter-in-law,
21 father-in-law, mother-in-law, domestic partner, or
22 sibling; and

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

26 (5) in the case of certification for intermittent

1 leave, or leave on a reduced leave schedule, for planned
2 medical treatment, the dates on which such treatment is
3 expected to be given and the duration of such treatment;

4 (6) in the case of certification for intermittent
5 leave, or leave on a reduced leave schedule, under Section
6 102(a)(1)(D), a statement of the medical necessity for the
7 intermittent leave or leave on a reduced leave schedule,
8 and the expected duration of the intermittent leave or
9 reduced leave schedule; and

10 (7) in the case of certification for intermittent
11 leave, or leave on a reduced leave schedule, under Section
12 102(a)(1)(C), a statement that the employee's intermittent
13 leave or leave on a reduced leave schedule is necessary for
14 the care of the son, daughter, parent, spouse, son-in-law,
15 daughter-in-law, father-in-law, mother-in-law, domestic
16 partner, or sibling who has a serious health condition, or
17 will assist in their recovery, and the expected duration
18 and schedule of the intermittent leave or reduced leave
19 schedule.

20 (c) Second opinion.

21 (1) In general. In any case in which the employer has
22 reason to doubt the validity of the certification provided
23 under subsection (a) for leave under subparagraph (C) or
24 (D) of Section 102(a)(1), the employer may require, at the
25 expense of the employer, that the eligible employee obtain
26 the opinion of a second health care provider designated or

1 approved by the employer concerning any information
2 certified under subsection (b) for such leave.

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

6 (d) Resolution of conflicting opinions.

7 (1) In general. In any case in which the second opinion
8 described in subsection (c) differs from the opinion in the
9 original certification provided under subsection (a), the
10 employer may require, at the expense of the employer, that
11 the employee obtain the opinion of a third health care
12 provider designated or approved jointly by the employer and
13 the employee concerning the information certified under
14 subsection (b).

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

19 (e) Subsequent recertification. The employer may require
20 that the eligible employee obtain subsequent recertifications
21 on a reasonable basis.

22 Section 104. Employment and benefits protection.

23 (a) Restoration to position.

24 (1) In general. Except as provided in subsection (b),
25 any eligible employee who takes leave under Section 102 for

1 the intended purpose of the leave shall be entitled, on
2 return from such leave:

3 (A) to be restored by the employer to the position
4 of employment held by the employee when the leave
5 commenced; or

6 (B) to be restored to an equivalent position with
7 equivalent employment benefits, pay, and other terms
8 and conditions of employment.

9 (2) Loss of benefits. The taking of leave under Section
10 102 shall not result in the loss of any employment benefit
11 accrued prior to the date on which the leave commenced.

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

14 (A) the accrual of any seniority or employment
15 benefits during any period of leave; or

16 (B) any right, benefit, or position of employment
17 other than any right, benefit, or position to which the
18 employee would have been entitled had the employee not
19 taken the leave.

20 (4) Certification. As a condition of restoration under
21 paragraph (1) for an employee who has taken leave under
22 Section 102(a)(1)(D), the employer may have a uniformly
23 applied practice or policy that requires each such employee
24 to receive certification from the health care provider of
25 the employee that the employee is able to resume work,
26 except that nothing in this paragraph shall supersede a

1 valid State or local law or a collective bargaining
2 agreement that governs the return to work of such
3 employees.

4 (5) Construction. Nothing in this subsection shall be
5 construed to prohibit an employer from requiring an
6 employee on leave under Section 102 to report periodically
7 to the employer on the status and intention of the employee
8 to return to work.

9 (b) Exemption concerning certain highly compensated
10 employees.

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

14 (A) such denial is necessary to prevent
15 substantial and grievous economic injury to the
16 operations of the employer;

17 (B) the employer notifies the employee of the
18 intent of the employer to deny restoration on such
19 basis at the time the employer determines that such
20 injury would occur; and

21 (C) in any case in which the leave has commenced,
22 the employee elects not to return to employment after
23 receiving such notice.

24 (2) Affected employees. An eligible employee described
25 in paragraph (1) is a salaried eligible employee who is
26 among the highest paid 10 percent of the employees employed

1 by the employer within 75 miles of the facility at which
2 the employee is employed.

3 (c) Maintenance of health benefits.

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

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

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

20 (B) the employee fails to return to work for a
21 reason other than:

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

26 (ii) other circumstances beyond the control of

1 the employee.

2 (3) Certification.

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

8 (i) a certification issued by the health care
9 provider of the son, daughter, spouse, parent,
10 son-in-law, daughter-in-law, father-in-law,
11 mother-in-law, domestic partner, or sibling of the
12 employee, as appropriate, in the case of an
13 employee unable to return to work because of a
14 condition specified in Section 102(a)(1)(C); or

15 (ii) a certification issued by the health care
16 provider of the eligible employee, in the case of
17 an employee unable to return to work because of a
18 condition specified in Section 102(a)(1)(D).

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

21 (C) Sufficiency of certification.

22 (i) Leave due to serious health condition of
23 employee. The certification described in
24 subparagraph (A)(ii) shall be sufficient if the
25 certification states that a serious health
26 condition prevented the employee from being able

1 to perform the functions of the position of the
2 employee on the date that the leave of the employee
3 expired.

4 (ii) Leave due to serious health condition of
5 family member. The certification described in
6 subparagraph (A)(i) shall be sufficient if the
7 certification states that the employee is needed
8 to care for the son, daughter, spouse, parent,
9 son-in-law, daughter-in-law, father-in-law,
10 mother-in-law, domestic partner, or sibling who
11 has a serious health condition on the date that the
12 leave of the employee expired.

13 Section 105. Prohibited Acts.

14 (a) Interference with rights.

15 (1) Exercise of rights. It shall be unlawful for any
16 employer to interfere with, restrain, or deny the exercise
17 of or the attempt to exercise, any right provided under
18 this Article.

19 (2) Discrimination. It shall be unlawful for any
20 employer to discharge or in any other manner discriminate
21 against any individual for opposing any practice made
22 unlawful by this Article.

23 (b) Interference with proceedings or inquiries. It shall be
24 unlawful for any person to discharge or in any other manner
25 discriminate against any individual because such individual:

1 (1) has filed any charge, or has instituted or caused
2 to be instituted any proceeding, under or related to this
3 Article;

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

7 (3) has testified, or is about to testify, in any
8 inquiry or proceeding relating to any right provided under
9 this Article.

10 Section 107. Enforcement.

11 (a) Civil action by employees.

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

14 (A) for damages equal to:

15 (i) the amount of:

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

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

1 employee;

2 (ii) the interest on the amount described in
3 clause (i) calculated at the rate of interest on
4 judgments set forth in Section 2-1303 of the Code
5 of Civil Procedure; and

6 (iii) an additional amount as liquidated
7 damages equal to the sum of the amount described in
8 clause (i) and the interest described in clause
9 (ii), except that if an employer who has violated
10 Section 105 proves to the satisfaction of the court
11 that the act or omission which violated Section 105
12 was in good faith and that the employer had
13 reasonable grounds for believing that the act or
14 omission was not a violation of Section 105, such
15 court may, in the discretion of the court, reduce
16 the amount of the liability to the amount and
17 interest determined under clauses (i) and (ii),
18 respectively; and

19 (B) for such equitable relief as may be
20 appropriate, including employment, reinstatement, and
21 promotion.

22 (2) Right of action. An action to recover the damages
23 or equitable relief prescribed in paragraph (1) may be
24 maintained against any employer (including a public
25 agency) in the circuit court by any one or more employees
26 for and in behalf of:

1 (A) the employees; or

2 (B) the employees and other employees similarly
3 situated.

4 (3) Fees and costs. The court in such an action shall,
5 in addition to any judgment awarded to the plaintiff, allow
6 a reasonable attorney's fee, reasonable expert witness
7 fees, and other costs of the action to be paid by the
8 defendant.

9 (c) Limitation.

10 (1) In general. An action may be brought under this
11 Section not later than 2 years after the date of the last
12 event constituting the alleged violation for which the
13 action is brought.

14 (2) Willful violation. In the case of such action
15 brought for a willful violation of Section 105, such action
16 may be brought within 3 years of the date of the last event
17 constituting the alleged violation for which such action is
18 brought.

19 Section 108. Special rules concerning employees of local
20 educational agencies.

21 (a) Application.

22 (1) In general. Except as otherwise provided in this
23 Section, the rights (including the rights under Section
24 104, which shall extend throughout the period of leave of
25 any employee under this Section), remedies, and procedures

1 under this Article shall apply to:

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

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

8 (2) Definitions. For purposes of the application
9 described in paragraph (1):

10 (A) Eligible employee. The term "eligible
11 employee" means an eligible employee of an agency or
12 school described in paragraph (1).

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

15 (b) Leave does not violate certain other federal laws. A
16 local educational agency and a private elementary or secondary
17 school shall not be in violation of the Individuals with
18 Disabilities Education Act (20 U.S.C. 1400 et seq.), Section
19 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title
20 VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.),
21 solely as a result of an eligible employee of such agency or
22 school exercising the rights of such employee under this
23 Article.

24 (c) Intermittent leave or leave on a reduced schedule for
25 instructional employees.

26 (1) In general. Subject to paragraph (2), in any case

1 in which an eligible employee employed principally in an
2 instructional capacity by any such educational agency or
3 school requests leave under subparagraph (C) or (D) of
4 Section 102(a)(1) that is foreseeable based on planned
5 medical treatment and the employee would be on leave for
6 greater than 20 percent of the total number of working days
7 in the period during which the leave would extend, the
8 agency or school may require that such employee elect
9 either:

10 (A) to take leave for periods of a particular
11 duration, not to exceed the duration of the planned
12 medical treatment; or

13 (B) to transfer temporarily to an available
14 alternative position offered by the employer for which
15 the employee is qualified, and that:

16 (i) has equivalent pay and benefits; and

17 (ii) better accommodates recurring periods of
18 leave than the regular employment position of the
19 employee.

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

24 (d) Rules applicable to periods near the conclusion of an
25 academic term. The following rules shall apply with respect to
26 periods of leave near the conclusion of an academic term in the

1 case of any eligible employee employed principally in an
2 instructional capacity by any such educational agency or
3 school:

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

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

10 (B) the return to employment would occur during the
11 3-week period before the end of such term.

12 (2) Leave less than 5 weeks prior to end of term. If
13 the eligible employee begins leave under subparagraph (A),
14 (B), or (C) of Section 102(a)(1) during the period that
15 commences 5 weeks prior to the end of the academic term,
16 the agency or school may require the employee to continue
17 taking leave until the end of such term, if:

18 (A) the leave is of greater than 2 weeks duration;

19 and

20 (B) the return to employment would occur during the
21 2-week period before the end of such term.

22 (3) Leave less than 3 weeks prior to end of term. If
23 the eligible employee begins leave under subparagraph (A),
24 (B), or (C) of Section 102(a)(1) during the period that
25 commences 3 weeks prior to the end of the academic term and
26 the duration of the leave is greater than 5 working days,

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

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

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

21 Section 109. Notice.

22 (a) In general. Each employer shall post and keep posted,
23 in conspicuous places on the premises of the employer where
24 notices to employees and applicants for employment are
25 customarily posted, a notice, to be prepared or approved by the

1 Director of Labor, setting forth excerpts from, or summaries
2 of, the pertinent provisions of this Article and information
3 pertaining to the filing of a charge.

4 (b) Penalty. Any employer that willfully violates this
5 Section may be assessed a civil money penalty not to exceed
6 \$100 for each separate offense.

7 ARTICLE II. (BLANK)

8 ARTICLE III. (BLANK)

9 ARTICLE IV. MISCELLANEOUS PROVISIONS

10 Section 401. Effect on other laws.

11 (a) Federal and State antidiscrimination laws. Nothing in
12 this Act shall be construed to modify or affect any federal or
13 State law prohibiting discrimination on the basis of race,
14 religion, color, national origin, sex, age, or disability.

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

19 Section 402. Effect on existing employment benefits.

20 (a) More protective. Nothing in this Act shall be construed
21 to diminish the obligation of an employer to comply with any

1 collective bargaining agreement or any employment benefit
2 program or plan that provides greater family or medical leave
3 rights to employees than the rights established under this Act.

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

7 Section 403. Encouragement of more generous leave
8 policies. Nothing in this Act shall be construed to discourage
9 employers from adopting or retaining leave policies more
10 generous than any policies that comply with the requirements
11 under this Act.

12 Section 404.1. Applicability; coordination.

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

16 (A) the date of the termination of such agreement; or

17 (B) the date that occurs 12 months after the effective
18 date of this Act.

19 (2) Nothing in this Act shall be construed to limit the
20 applicability of the federal Family and Medical Leave Act of
21 1993 with regard to employers and employees covered by that
22 Act.

23 (3) In the case of leave that is subject to the federal
24 Family and Medical Leave Act of 1993:

1 (A) the 12-month period during which 12 workweeks of
2 leave may be taken under this Act shall run concurrently
3 with the 12-month period under the federal Family and
4 Medical Leave Act of 1993, and shall commence the date
5 leave taken under the federal Family and Medical Leave Act
6 of 1993 commences; and

7 (B) leave taken under this Act shall run concurrently
8 with leave taken under the federal Family and Medical Leave
9 Act of 1993.

10 (4) The aggregate amount of leave taken under this Act or
11 the federal Family and Medical Leave Act of 1993, or both,
12 shall not exceed 12 workweeks in a 12-month period.

13 Section 405. Effective date. This Act takes effect 6 months
14 after it becomes law."