



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2613

Introduced 2/16/2016, by Sen. Jennifer Bertino-Tarrant

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.875 new

Creates the Child Bereavement Leave Act and amends the State Finance Act. Provides that an employee may use specified amounts of bereavement leave to grieve the death of the employee's child, attend services in relation to the death of the employee's child, or make arrangements necessitated by the death of the employee's child. Provides for enforcement by the Department of Labor. Provides for civil penalties. Authorizes the Attorney General to collect penalties. Creates the Child Bereavement Fund as a special fund in the State treasury. Effective immediately.

LRB099 19180 JLS 44831 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

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 Child
5 Bereavement Leave Act.

6 Section 5. Definitions. 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 a person who performs services for an
12 employer for wages, remuneration, or other compensation.

13 "Employer" means any of the following:

- 14 (1) the State or any agency of the State;
15 (2) any unit of local government or school district; or
16 (3) any person that employs at least 50 employees.

17 Section 10. Bereavement Leave.

18 (a) All employees shall be entitled to use a maximum of 4
19 weeks (20 work days) of unpaid bereavement leave to:

20 (1) attend the funeral or alternative to a funeral of a
21 child;

22 (2) make arrangements necessitated by the death of the

1 child; or

2 (3) grieve the death of the child.

3 (b) Bereavement leave under subsection (a) of this Section
4 must be completed within 60 days after the date on which the
5 employee receives notice of the death of the child. Notice of
6 the death may be by any means and from any source.

7 (c) An employee shall provide the employer with at least 48
8 hours' advance notice of the employee's intention to take
9 bereavement leave, unless providing such notice is not
10 practicable.

11 (d) An employer may require reasonable documentation.
12 Documentation may include a death certificate, a published
13 obituary, or written verification of death, burial, or memorial
14 services from a mortuary, funeral home, burial society,
15 crematorium, religious institution, or government agency.

16 (e) An employee is eligible for bereavement leave after
17 working 180 days for an employer, provided the employee has
18 worked an average of at least 25 hours per week in the 180 days
19 before the start of bereavement leave.

20 (f) An employee is entitled to a total of 12 workweeks of
21 bereavement leave during any 12-month period. This Act does not
22 create a right for an employee to take unpaid leave that
23 exceeds the unpaid leave time allowed under, or is in addition
24 to the unpaid leave time permitted by, the federal Family and
25 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

1 Section 15. Existing leave usable for bereavement. An
2 employee who is entitled to take paid or unpaid leave
3 (including family, medical, sick, annual, personal, or similar
4 leave) from employment, pursuant to federal, State, or local
5 law, a collective bargaining agreement, or an employment
6 benefits program or plan may elect to substitute any period of
7 such leave for an equivalent period of leave provided under
8 Section 10.

9 Section 20. Unlawful employer practices. It is unlawful for
10 any employer to take any adverse action against an employee
11 because the employee (1) exercises rights or attempts to
12 exercise rights under this Act, (2) opposes practices which
13 such employee believes to be in violation of this Act, or (3)
14 supports the exercise of rights of another under this Act.

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

22 Section 25. Department responsibilities.

23 (a) The Department shall administer and enforce this Act
24 and adopt rules under the Illinois Administrative Procedure Act

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

12 (b) The Department is authorized to impose civil penalties
13 prescribed in Section 30 in administrative proceedings that
14 comply with the Illinois Administrative Procedure Act and to
15 supervise the payment of the unpaid wages and damages owing to
16 the employee or employees under this Act. The Department may
17 bring any legal action necessary to recover the amount of
18 unpaid wages, damages, and penalties, and the employer shall be
19 required to pay the costs. Any sums recovered by the Department
20 on behalf of an employee under this Act shall be paid to the
21 employee or employees affected. However, 20% of any penalty
22 collected from the employer for a violation of this Act shall
23 be deposited into the Child Bereavement Fund, a special fund
24 created in the State treasury, and used for the enforcement of
25 this Act.

26 (c) The Attorney General may bring an action to enforce the

1 collection of any civil penalty imposed under this Act.

2 Section 30. Enforcement.

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

8 (b) Any employer that violates this Act is liable in a
9 claim filed with the Department or in a civil action in circuit
10 court to any affected individuals for actual and compensatory
11 damages, with interest at the prevailing rate, punitive
12 damages, and such equitable relief as may be appropriate. The
13 defendant shall pay reasonable attorney's fees, reasonable
14 expert witness fees, and other costs of the action. A civil
15 action may be brought without first filing an administrative
16 complaint.

17 (c) Any employer that the Department or a court finds by a
18 preponderance of the evidence to have knowingly, repeatedly, or
19 with reckless disregard violated any provision of this Act or
20 any rule adopted under this Act is subject to a civil money
21 penalty not to exceed \$2,500 for each separate offense.

22 Section 95. The State Finance Act is amended by adding
23 Section 5.875 as follows:

1 (30 ILCS 105/5.875 new)

2 Sec. 5.875. The Child Bereavement Fund.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.