Introduced by Representatives Kornheiser of Brattleboro and Scheu of Middlebury

Referred to Committee on

Date:

Subject: Labor; employment practices; parental and family leave

Statement of purpose of bill as introduced: This bill proposes to amend the Parental and Family Leave Act to make it applicable to additional employers, to permit employees to care for additional types of family members, and by making various other amendments.

An act relating to making various amendments to the Parental and Family Leave Act

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) “Employer” means an individual, organization, or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State which
for the purposes of parental leave a person who employs 10 or more
individuals who are employed for an average of at least 30 hours per week
during a year and for the purposes of family leave employs 15 or more
individuals for an average of at least 30 hours per week during a year.

* * *

(3) “Family leave” means a leave of absence from employment by an
employee who works for an employer which employs 15 or more individuals
who are employed for an average of at least 30 hours per week during the year
for one of the following reasons:

(A) the serious illness of the employee; or

(B) the serious illness of the employee’s child, stepchild or ward who
lives with the employee, foster child, parent, spouse, or parent of the
employee’s spouse, family member;

(4) “Parental leave” means a leave of absence from employment by an
employee who works for an employer which employs 10 or more individuals
who are employed for an average of at least 30 hours per week during the year
for one of the following reasons:

(C) the employee’s pregnancy;

(A)(D) the birth of the employee’s child; or

(B)(E) the initial placement of a child 16 18 years of age or younger
with the employee for the purpose of adoption.
(4) “Family member” means the employee’s:

(A) child, stepchild, ward, or foster child;

(B) spouse, domestic partner, or civil union partner;

(C) parent or the parent of the employee’s spouse, domestic partner, or civil union partner;

(D) sibling or the sibling of the employee’s spouse, domestic partner, or civil union partner;

(E) grandchild or the grandchild of the employee’s spouse, domestic partner, or civil union partner;

(F) grandparent or the grandparent of the employee’s spouse, domestic partner, or civil union partner; and

(G) as demonstrated by the employee, any other individual with whom the employee has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship.

* * *

(6) “Commissioner” means the Commissioner of Labor.

(7) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

Sec. 2. 21 V.S.A. § 472 is amended to read:

§ 472. LEAVE

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks for the following reasons:
(1) for parental leave, during the employee’s pregnancy; or

(2) following the birth of the employee’s child; or

(3) within a year following the initial placement of a child 16 to 18 years of age or younger with the employee for the purpose of adoption or foster care; or

(2)(4) for family leave, for the serious illness of the employee; or

(5) the serious illness of the employee’s child, stepchild or ward of the employee who lives with the employee, foster child, parent, spouse, or parent of the employee’s spouse.

(b) During the leave, at the employee’s option, the employee may use accrued sick leave, vacation leave, or any other accrued paid leave, not to exceed six weeks or short-term disability insurance or other insurance benefits. Utilization of accrued paid leave or insurance benefits shall not extend the leave provided herein by this section.

* * *

(d) The employer shall post and maintain in a conspicuous place in and about each of its places of business printed notices of the provisions of this subchapter on forms provided by the Commissioner of Labor.

(e)(1) An employee shall give his or her employer reasonable written notice of intent to take family leave under this subchapter. Notice shall include
the date the leave is expected to commence and the estimated duration of the leave.

(2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.

(3) In the case of an unanticipated serious illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

(4) In the case of serious illness of the employee or a member of the employee’s family, an employer may require certification from a physician to verify the condition and the amount and necessity for the leave requested.

(5) An employee may return from leave earlier than estimated upon approval of the employer.

(6) An employee shall provide reasonable notice to the employer of his or her need to extend the leave to the extent provided by this chapter.

* * *

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments for accrued sick leave or
vacation leave. An employer may elect to waive the rights provided pursuant
to this subsection.

Sec. 3. 21 V.S.A. § 472d is added to read:

§ 472d. LEAVE

(a) As used in this section:

(1) “Domestic partner” has the same meaning as in 17 V.S.A. § 2414.

(2) “Domestic violence” has the same meaning as in 15 V.S.A. § 1151.

(3) “Employer” means any person who employs one or more individuals
to perform services in Vermont.

(4) “Employee” means a person who, in consideration of direct or
indirect gain or profit, has been continuously employed by the same employer
for a period of six months for an average of at least 20 hours per week.

(5) “Family member” means the employee’s:

(A) child, stepchild, ward, or foster child;

(B) spouse, domestic partner, or civil union partner;

(C) parent or the parent of the employee’s spouse, domestic partner,
or civil union partner;

(D) sibling or the sibling of the employee’s spouse, domestic partner,
or civil union partner;

(E) grandchild or the grandchild of the employee’s spouse, domestic
partner, or civil union partner;
(F) grandparent or the grandparent of the employee’s spouse, 
domestic partner, or civil union partner; and 
(G) as demonstrated by the employee, any other individual with 
whom the employee has a significant personal bond that is or is like a family 
relationship, regardless of biological or legal relationship.

(6) “Sexual assault” has the same meaning as in 15 V.S.A. § 1151.

(7) “Stalking” has the same meaning as in 15 V.S.A. § 1151.

(b)(1) In addition to any other leave provided pursuant to this subchapter, 
an employee shall be entitled to take up to eight weeks of leave in a 12-month 
period if:

(A) the employee or the employee’s family member is a victim of 
domestic violence, sexual assault, or stalking;

(B) the employee is using the leave for one of the following reasons 
related to the domestic violence, sexual assault, or stalking:

(i) to seek or obtain medical care, counseling, or social or legal 
services;

(ii) to recover from injuries;

(iii) to participate in safety planning;

(iv) to relocate or secure safe housing; or

(v) to meet with a State’s attorney or law enforcement officer; and
(C) the employee is not the perpetrator of the domestic violence, sexual assault, or stalking.

(2)(A) An employee may use the leave provided pursuant to this subsection intermittently.

(B) An employee who uses leave intermittently shall be entitled to take leave in increments of not less than one day.

(c) During the leave, at the employee’s option, the employee may use accrued sick leave, vacation leave, or any other accrued paid leave. Use of accrued paid leave shall not extend the leave provided pursuant to this section.

(d)(1)(A) If the need for a leave pursuant to this section is foreseeable, the employee shall provide the employer with written notice of the need for the leave as soon as practicable.

(B) An employee shall not be required to provide advance notice of the need for leave caused by an emergency or other unforeseen event, but shall instead notify the employer that the leave was taken or is being taken within three business days after commencing the leave.

(2)(A) An employer may require an employee to provide documentation of the need for the leave from one of the following sources:

(i) a court or a law enforcement or other government agency;
(ii) a domestic violence, sexual assault, or stalking assistance program;
(iii) a legal, clerical, medical, or other professional from whom the employee, or the employee’s family member, received counseling or other assistance concerning domestic violence, sexual assault, or stalking; or

(iv) a self-certification of the employee’s, or the employee’s family member’s, status as a victim of domestic violence, sexual assault, or stalking, signed under penalty of perjury, on a standard form adopted for that purpose by:

(I) a federal or State government entity, including the Vermont Department for Children and Families; or

(II) a nonprofit organization that provides support services to protected tenants.

(B) An employer shall not disclose any information received pursuant to this subdivision (d)(2) except to the extent:

(i) consented to by the employee in writing;

(ii) required pursuant to a court order; or

(iii) required pursuant to State or federal law.

(e) The employer shall continue employment benefits for the duration of a leave taken pursuant to this section at the level and under the conditions coverage would be provided if the employee continued in employment continuously for the duration of the leave. The employer may require that the
employee contribute to the cost of benefits during the leave at the existing rate of employee contribution.

(f) The employer shall post and maintain in a conspicuous place in and about each of its places of business printed notices of the provisions of this section on forms provided by the Commissioner of Labor.

(g)(1) Upon return from leave taken under this section, an employee shall be offered the same or comparable job at the same level of compensation, employment benefits, seniority, and any other term or condition of the employment existing on the day leave began.

(2) This subsection shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate.

(3) This subsection shall not apply if the employer can demonstrate by clear and convincing evidence that during the period of leave the employee’s job would have been terminated or the employee would have been laid off for reasons unrelated to the leave or the reason for which the leave was taken.

(h)(1) An employer may adopt a leave policy more generous than the leave provided by this section.

(2) Nothing in this section shall be construed to diminish an employer’s obligation to comply with any collective bargaining agreement or any
employment benefit program or plan that provides greater leave rights than the
rights provided by this section.

(3) A collective bargaining agreement or employment benefit program
or plan shall not diminish rights provided by this section.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2021.