

1 H.461

2 An act relating to expanding employee access to unpaid leave

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

4 Sec. 1. INTENT

5 It is the intent of the General Assembly to align Vermont's family leave
6 policies with inclusive and equitable standards, ensuring that LGBTQ+
7 families, workers with low income, and individuals in nontraditional family
8 structures have equal access to caregiving leave without undue burden.

9 Sec. 2. 21 V.S.A. § 471 is amended to read:

10 § 471. DEFINITIONS

11 As used in this subchapter:

12 (1) "Bereavement leave" means a leave of absence from employment or
13 self-employment by an individual due to the death of the individual's family
14 member that occurs not more than one year after the family member's death.
15 Bereavement leave includes leave taken in relation to the administration or
16 settlement of the deceased family member's estate. Leave taken in relation to
17 the administration or settlement of the deceased family member's estate shall
18 not occur more than one year after the family member's death.

19 (2) "Domestic partner" means an individual with whom the employee
20 has an enduring domestic relationship of a spousal nature, provided the
21 employee and the domestic partner:

1 (A) have shared a residence for at least six consecutive months;

2 (B) are at least 18 years of age;

3 (C) are not married to or considered a domestic partner of another
4 individual;

5 (D) are not related by blood closer than would bar marriage under
6 State law; and

7 (E) have agreed between themselves to be responsible for each
8 other's welfare.

9 (3) "Domestic violence" has the same meaning as in 15 V.S.A. § 1151
10 and includes the definition of "abuse" in 15 V.S.A. § 1101.

11 (4) "Employer" means an individual, organization, or governmental
12 body, partnership, association, corporation, legal representative, trustee,
13 receiver, trustee in bankruptcy, and any common carrier by rail, motor, water,
14 air, or express company doing business in or operating within this State that a
15 person who for the purposes of parental leave, bereavement leave, safe leave,
16 and leave for a qualifying exigency employs 10 or more individuals who are
17 employed for an average of at least 30 hours per week during a year and for the
18 purposes of family leave employs 15 or more individuals for an average of at
19 least 30 hours per week during a year.

20 (2)(5) "Employee" means a person who, in consideration of direct or
21 indirect gain or profit, has been continuously employed by the same employer

1 for a period of one year for an average of at least 30 hours per week or meets
2 the service requirement set forth in 29 C.F.R. § 825.801.

3 ~~(3)(6)~~ “Family leave” means a leave of absence from employment by an
4 employee ~~who works for an employer that employs 15 or more individuals~~
5 ~~who are employed for an average of at least 30 hours per week during the year~~
6 for one of the following reasons:

7 (A) the serious health condition of the employee; or

8 (B) the serious health condition of the employee’s ~~child, stepchild or~~
9 ~~ward who lives with the employee, foster child, parent, spouse, or parent of the~~
10 ~~employee’s spouse~~ family member.

11 (7) “Family member” means:

12 (A) regardless of age, an employee’s biological, adopted, or foster
13 child; an employee’s stepchild or legal ward; a child of the employee’s spouse
14 or civil union or domestic partner; or a child to whom the employee stands in
15 loco parentis, regardless of legal documentation; an individual to whom the
16 employee stood in loco parentis when the individual was under 18 years of
17 age; or any individual for whom the employee provides caregiving
18 responsibilities similar to those of a parent-child relationship;

19 (B)(i) a parent of an employee or an employee’s spouse or civil union
20 or domestic partner, regardless of whether the relationship to the employee or

1 the employee's spouse or civil union or domestic partner is a biological, foster,
2 adoptive, or step relationship;

3 (ii) a legal guardian of an employee or employee's spouse or civil
4 union or domestic partner; or

5 (iii) a person who stands in loco parentis for the employee or who
6 stood in loco parentis when the employee or employee's spouse or civil union
7 or domestic partner was under 18 years of age;

8 (C) a person to whom the employee is legally married under the laws
9 of any state or a civil union or domestic partner of an employee; or

10 (D) a grandparent, grandchild, or sibling of the employee or the
11 employee's spouse or civil union or domestic partner, regardless of whether
12 the relationship to the employee or the employee's spouse or civil union or
13 domestic partner is a biological, foster, adoptive, or step relationship.

14 ~~(4)~~(8) "Health care provider" means a licensed health care provider or a
15 health care provider as defined pursuant to 29 C.F.R. § 825.125.

16 (9) "In loco parentis" means a relationship in which an individual has
17 day-to-day responsibilities to care for and support a child, regardless of
18 biological or legal ties.

19 ~~(5)~~(10) "Parental leave" means a leave of absence from employment by
20 an employee who works for an employer that employs 10 or more individuals

1 ~~who are employed for an average of at least 30 hours per week during the year~~
2 for one of the following reasons:

3 (A) ~~the birth of the employee's child~~ pregnancy;

4 (B) the employee's recovery from childbirth or miscarriage;

5 (C) the birth of the employee's child and to care for or bond with the
6 child within one year after the child's birth; or

7 ~~(B)(D)~~ the initial placement of a child 16 18 years of age or younger
8 with the employee for the purpose of adoption or foster care and to care for or
9 bond with the child within one year after the placement for adoption or foster
10 care.

11 (11) "Qualifying exigency" means a qualifying exigency identified
12 pursuant to 29 C.F.R. § 825.126 that is related to active duty service by a
13 family member in the U.S. Armed Forces.

14 (12) "Safe leave" means a leave of absence from employment by an
15 employee because:

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

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

20 (i) to seek or obtain medical care, counseling, or social or legal
21 services, either for themselves or for a family member;

- 1 (ii) to recover from injuries;
- 2 (iii) to participate in safety planning, either for themselves or for a
- 3 family member;
- 4 (iv) to relocate or secure safe housing, either for themselves or for
- 5 a family member;
- 6 (v) to respond to a fatality or near fatality related to domestic
- 7 violence, sexual assault, or stalking, either for themselves or for a family
- 8 member; or
- 9 (vi) to meet with a State’s Attorney or law enforcement officer,
- 10 either for themselves or for a family member; and
- 11 (C) the employee is not the perpetrator or alleged perpetrator of the
- 12 domestic violence, sexual assault, or stalking.
- 13 ~~(6)~~(13) “Serious health condition” means:
- 14 (A) an accident, illness, injury, disease, or physical or mental
- 15 condition that:
- 16 (i) poses imminent danger of death;
- 17 (ii) requires inpatient care in a hospital, hospice, or residential
- 18 medical care facility; or
- 19 (iii) requires continuing treatment by a health care provider; or

1 (B) rehabilitation from an accident, illness, injury, disease, or
2 physical or mental condition described in subdivision (A) of this subdivision
3 ~~(6)(13)~~, including treatment for substance use disorder.

4 (14) "Sexual assault" has the same meaning as in 12 V.S.A. § 5131.

5 (15) "Stalking" has the same meaning as in 12 V.S.A. § 5131.

6 (16) "U.S. Armed Forces" means:

7 (A) the U.S. Army, Navy, Air Force, Marine Corps, Space Force, and
8 Coast Guard;

9 (B) a reserve component of the U.S. Army, Navy, Air Force, Marine
10 Corps, Space Force, and Coast Guard; or

11 (C) the National Guard of any state.

12 Sec. 3. 21 V.S.A. § 472 is amended to read:

13 § 472. LEAVE

14 (a)(1) During any 12-month period, an employee shall be entitled to take
15 unpaid leave for a period not to exceed 12 weeks:

16 ~~(1)(A) for parental leave, during the employee's pregnancy and~~
17 ~~following the birth of an employee's child or within a year following the initial~~
18 ~~placement of a child 16 years of age or younger with the employee for the~~
19 ~~purpose of adoption.;~~

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

4 (3) In the case of an unanticipated serious health condition, a
5 miscarriage, an unanticipated need for safe leave, a premature birth, the death
6 of a family member, or a short-notice qualifying exigency, the employee shall
7 give the employer notice of the commencement of the leave as soon as
8 practicable.

9 (4)(A) In the case of a serious health condition of the employee or a
10 member of the employee's family, an employer may require certification from
11 a health care provider to verify the condition and the amount and necessity for
12 the leave requested.

13 (B) An employer may require an employee to provide documentation
14 of the need for safe leave. An employee may provide documentation from any
15 one of the following sources:

16 (i) a court or a law enforcement or other government agency;

17 (ii) a domestic violence, sexual assault, or stalking assistance
18 program;

19 (iii) a legal, clerical, medical, or other professional from whom the
20 employee, or the employee's family member, received counseling or other
21 assistance concerning domestic violence, sexual assault, or stalking; or

1 (iv) a self-attestation by the employee describing the
2 circumstances supporting the need for safe leave; no further corroboration shall
3 be required unless otherwise mandated by law.

4 (C) An employer may require an employee to provide documentation
5 of the need for bereavement leave. An employee may provide any of the
6 following forms of documentation:

7 (i) a death certificate;
8 (ii) a published obituary; or
9 (iii) a written notice or verification of death, burial, or memorial
10 services from a mortuary, funeral home, burial society, crematorium, religious
11 organization, or governmental agency.

12 (D) An employer may require an employee to provide documentation
13 of the need for leave for a qualifying exigency as set forth in 29 C.F.R.
14 § 825.309.

15 (E) An employer shall not disclose any private medical information
16 or information relating to a safe leave that the employer receives pursuant to
17 this subdivision (4) except to the extent the disclosure is permitted by law and:

18 (i) consented to by the employee in writing;
19 (ii) required pursuant to a court order; or
20 (iii) required pursuant to State or federal law.

1 ~~(4)~~(5) An employee may return from leave earlier than estimated upon
2 approval of the employer.

3 ~~(5)~~(6) An employee shall provide reasonable notice to the employer of
4 the need to extend leave to the extent provided by this subchapter.

5 (f) Upon return from leave taken under this subchapter, an employee shall
6 be offered the same or comparable job at the same level of compensation,
7 employment benefits, seniority, or any other term or condition of the
8 employment existing on the day leave began. This ~~subchapter~~ subsection shall
9 not apply if, prior to requesting leave, the employee had been given notice or
10 had given notice that the employment would terminate. This subsection shall
11 not apply if the employer can demonstrate by clear and convincing evidence
12 that:

13 (1) during the period of leave the employee's job would have been
14 terminated or the employee laid off for reasons unrelated to the leave or the
15 condition for which the leave was granted; or

16 (2) the employee performed unique services and hiring a permanent
17 replacement during the leave, after giving reasonable notice to the employee of
18 intent to do so, was the only alternative available to the employer to prevent
19 substantial and grievous economic injury to the employer's operation.

20 (g)(1) An employer may adopt a leave policy more generous than the leave
21 policy provided by this subchapter.

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

5 (B) A collective bargaining agreement or employment benefit
6 program or plan may not diminish rights provided by this subchapter.

7 (3) Notwithstanding the provisions of this subchapter, an employee may,
8 at the time a need for parental or family leave arises, waive some or all the
9 rights under this subchapter provided the waiver is informed and voluntary and
10 any changes in conditions of employment related to any waiver shall be
11 mutually agreed upon between employer and employee.

12 (h) Except for the serious health condition of the employee or safe leave
13 when the employee is the victim or alleged victim, an employee who does not
14 return to employment with the employer who provided the leave shall return to
15 the employer the value of any compensation that the employer paid to or on
16 behalf of the employee during the leave, except payments for accrued ~~sick~~
17 ~~leave or vacation~~ leave.

18 Sec. 4. 21 V.S.A. § 472a is amended to read:

19 § 472a. SHORT-TERM FAMILY LEAVE

20 (a) In addition to the leave provided in section 472 of this title, an
21 employee shall be entitled to take unpaid leave not to exceed four hours in any

1 30-day period and not to exceed 24 hours in any 12-month period. An
2 employer may require that leave be taken in a minimum of two-hour segments
3 and may be taken for any of the following purposes:

4 (1) To participate in preschool or school activities directly related to the
5 academic educational advancement of the employee's ~~child, stepchild, foster~~
6 ~~child, or ward who lives with the employee~~ family member, such as a parent-
7 teacher conference.

8 (2) To attend or to accompany the employee's ~~child, stepchild, foster~~
9 ~~child, or ward who lives with the employee or the employee's parent, spouse,~~
10 ~~or parent-in-law~~ family member to routine medical or dental appointments.

11 (3) To accompany the employee's ~~parent, spouse, or parent-in-law~~
12 family member to other appointments for professional services related to their
13 care and well-being.

14 (4) To respond to a medical emergency involving the employee's ~~child,~~
15 ~~stepchild, foster child, or ward who lives with the employee or the employee's~~
16 ~~parent, spouse, or parent-in-law~~ family member.

17 * * *

18 Sec. 5. EFFECTIVE DATE

19 This act shall take effect on July 1, 2025.