

1 H.461

2 An act relating to expanding employee access to unpaid leave

3 The Senate proposes to the House to amend the bill by striking out all after
4 the enacting clause and inserting in lieu thereof the following:

5 Sec. 1. INTENT

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

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

11 § 471. DEFINITIONS

12 As used in this subchapter:

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

1 the administration or settlement of the deceased family member's estate shall
2 not occur more than one year after the family member's death.

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

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

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

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

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

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

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

16 (4) "Employer" means an individual, organization, or governmental
17 body, partnership, association, corporation, legal representative, trustee,
18 receiver, trustee in bankruptcy, and any common carrier by rail, motor, water,
19 air, or express company doing business in or operating within this State that a
20 person who for the purposes of parental leave, bereavement leave, safe leave,
21 and leave for a qualifying exigency employs 10 or more individuals who are

1 employed for an average of at least 30 hours per week during a year and for the
2 purposes of family leave employs 15 or more individuals for an average of at
3 least 30 hours per week during a year.

4 ~~(2)~~(5) “Employee” means a person who, in consideration of direct or
5 indirect gain or profit, has been continuously employed by the same employer
6 for a period of one year for an average of at least 30 hours per week or meets
7 the service requirement set forth in 29 C.F.R. § 825.801.

8 ~~(3)~~(6) “Family leave” means a leave of absence from employment by an
9 employee ~~who works for an employer that employs 15 or more individuals~~
10 ~~who are employed for an average of at least 30 hours per week during the year~~
11 for one of the following reasons:

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

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

16 (7) “Family member” means:

17 (A) regardless of age, an employee’s biological, adopted, or foster
18 child; an employee’s stepchild or legal ward; a child of the employee’s spouse
19 or civil union or domestic partner; or a child to whom the employee stands in
20 loco parentis, regardless of legal documentation; an individual to whom the
21 employee stood in loco parentis when the individual was under 18 years of

1 age; or any individual for whom the employee provides caregiving
2 responsibilities similar to those of a parent-child relationship;

3 (B)(i) a parent of an employee or an employee's spouse or civil union
4 or domestic partner, regardless of whether the relationship to the employee or
5 the employee's spouse or civil union or domestic partner is a biological, foster,
6 adoptive, or step relationship;

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

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

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

14 (D) a grandparent, grandchild, or sibling of the employee or the
15 employee's spouse or civil union or domestic partner, regardless of whether
16 the relationship to the employee or the employee's spouse or civil union or
17 domestic partner is a biological, foster, adoptive, or step relationship.

18 ~~(4)~~(8) "Health care provider" means a licensed health care provider or a
19 health care provider as defined pursuant to 29 C.F.R. § 825.125.

1 (9) “In loco parentis” means a relationship in which an individual has
2 day-to-day responsibilities to care for and support a child, regardless of
3 biological or legal ties.

4 ~~(5)(10)~~ (10) “Parental leave” means a leave of absence from employment by
5 an employee ~~who works for an employer that employs 10 or more individuals~~
6 ~~who are employed for an average of at least 30 hours per week during the year~~
7 for one of the following reasons:

8 (A) ~~the birth of the employee’s child~~ pregnancy;

9 (B) the employee’s recovery from childbirth or miscarriage;

10 (C) the birth of the employee’s child and to care for or bond with the
11 child within one year after the child’s birth; or

12 ~~(B)(D)~~ (D) the initial placement of a child ~~to~~ 18 years of age or younger
13 with the employee for the purpose of adoption or foster care and to care for or
14 bond with the child within one year after the placement for adoption or foster
15 care.

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

19 (12) “Safe leave” means a leave of absence from employment by an
20 employee because:

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

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

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

7 (ii) to recover from injuries;

8 (iii) to participate in safety planning, either for themselves or for a
9 family member;

10 (iv) to relocate or secure safe housing, either for themselves or for
11 a family member;

12 (v) to respond to a fatality or near fatality related to domestic
13 violence, sexual assault, or stalking, either for themselves or for a family
14 member; or

15 (vi) to meet with a State's Attorney or law enforcement officer,
16 either for themselves or for a family member; and

17 (C) the employee is not the perpetrator or alleged perpetrator of the
18 domestic violence, sexual assault, or stalking.

19 ~~(6)~~(13) "Serious health condition" means:

20 (A) an accident, illness, injury, disease, or physical or mental
21 condition that:

1 (i) poses imminent danger of death;

2 (ii) requires inpatient care in a hospital, hospice, or residential
3 medical care facility; or

4 (iii) requires continuing treatment by a health care provider; or

5 (B) rehabilitation from an accident, illness, injury, disease, or
6 physical or mental condition described in subdivision (A) of this subdivision
7 ~~(6)~~(13), including treatment for substance use disorder.

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

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

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

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

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

15 (C) the National Guard of any state.

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

17 § 472. LEAVE

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

20 ~~(1)(A) for parental leave, during the employee's pregnancy and~~
21 ~~following the birth of an employee's child or within a year following the initial~~

1 ~~placement of a child 16 years of age or younger with the employee for the~~
2 ~~purpose of adoption;~~

3 ~~(2)(B) for family leave, for the serious health condition of the employee~~
4 ~~or the employee's child, stepchild or ward of the employee who lives with the~~
5 ~~employee, foster child, parent, spouse, or parent of the employee's spouse;~~

6 (C) for safe leave; or

7 (D) for a qualifying exigency.

8 (2) During any 12-month period, an employee may use up to two weeks
9 out of the 12 weeks of leave available pursuant to subdivision (1) of this
10 subsection for bereavement leave, with not more than five workdays to be
11 taken consecutively.

12 (b) During the leave, at the employee's option, the employee may use
13 accrued sick leave ~~or~~, vacation leave ~~or~~, any other accrued paid leave, ~~not to~~
14 ~~exceed six weeks~~ or short-term disability insurance. Utilization of accrued
15 paid leave or short-term disability insurance shall not extend the leave
16 provided pursuant to this section.

17 * * *

18 (e)(1) An employee shall give the employer reasonable written notice of
19 intent to take leave under this ~~subchapter~~ section. Notice shall include the date
20 the leave is expected to commence and the estimated duration of the leave. If

1 the leave is for a family member, the employer may request documentation
2 identifying the qualifying family relationship.

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

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

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

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

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

19 (ii) a domestic violence, sexual assault, or stalking assistance

20 program;

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

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

7 (C) An employer may require an employee to provide documentation
8 of the need for bereavement leave. An employee may provide any of the
9 following forms of documentation:

10 (i) a death certificate;

11 (ii) a published obituary; or

12 (iii) a written notice or verification of death, burial, or memorial
13 services from a mortuary, funeral home, burial society, crematorium, religious
14 organization, or governmental agency.

15 (D) An employer may require an employee to provide documentation
16 of the need for leave for a qualifying exigency as set forth in 29 C.F.R.
17 § 825.309.

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

21 (i) consented to by the employee in writing;

1 (ii) required pursuant to a court order; or

2 (iii) required pursuant to State or federal law.

3 ~~(4)(5)~~ An employee may return from leave earlier than estimated upon
4 approval of the employer.

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

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

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

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

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

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

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

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

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

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

21 § 472a. SHORT-TERM FAMILY LEAVE

1 (a) In addition to the leave provided in section 472 of this title, an
2 employee shall be entitled to take unpaid leave not to exceed four hours in any
3 30-day period and not to exceed 24 hours in any 12-month period. An
4 employer may require that leave be taken in a minimum of two-hour segments
5 and may be taken for any of the following purposes:

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

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

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

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

19 * * *

20 Sec. 5. EFFECTIVE DATE

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