

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 497
FINAL READING

Introduced by White, 8

Read first time January 17, 2007

Committee: Government, Military and Veterans Affairs

A BILL

- 1 FOR AN ACT relating to labor and employment; to adopt the Family
- 2 Military Leave Act; and to declare an emergency.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as
2 the Family Military Leave Act.

3 Sec. 2. For purposes of the Family Military Leave Act:

4 (1) Employee means any person who may be permitted,
5 required, or directed by an employer in consideration of direct or
6 indirect gain or profit to engage in any employment. Employee does
7 include an independent contractor. Employee includes an employee
8 of a covered employer who has been employed by the same employer
9 for at least twelve months and has been employed for at least one
10 thousand two hundred fifty hours of service during the twelve-month
11 period immediately preceding the commencement of the leave;

12 (2) Employee benefits means all benefits, other than
13 salary and wages, provided or made available to employees by
14 an employer and includes group life insurance, health insurance,
15 disability insurance, and pensions, regardless of whether benefits
16 are provided by a policy or practice of an employer;

17 (3) Employer means (a) any individual, legal
18 representative, partnership, limited liability company,
19 corporation, association, business trust, or other business
20 entity and (b) the State of Nebraska and political subdivisions;
21 and

22 (4) Family military leave means leave requested by an
23 employee who is the spouse or parent of a person called to military
24 service lasting one hundred seventy-nine days or longer with the
25 state or United States pursuant to the orders of the Governor or

1 the President of the United States.

2 Sec. 3. (1) Any employer that employs between fifteen and
3 fifty employees shall provide up to fifteen days of unpaid family
4 military leave to an employee during the time federal or state
5 deployment orders are in effect, subject to the conditions set
6 forth in this section.

7 (2) An employer that employs more than fifty employees
8 shall provide up to thirty days of unpaid family military leave to
9 an employee during the time federal or state deployment orders are
10 in effect, subject to the conditions set forth in this section.

11 (3) The employee shall give at least fourteen days'
12 notice of the intended date upon which the family military leave
13 will commence if leave will consist of five or more consecutive
14 work days. Where able, the employee shall consult with the employer
15 to schedule the leave so as to not unduly disrupt the operations
16 of the employer. Employees taking family military leave for less
17 than five consecutive days shall give the employer advanced notice
18 as is practicable. The employer may require certification from the
19 proper military authority to verify the employee's eligibility for
20 the family military leave requested.

21 Sec. 4. (1) Any employee who exercises the right to
22 family military leave under the Family Military Leave Act, upon
23 expiration of the leave, shall be entitled to be restored by
24 the employer to the position held by the employee when the
25 leave commenced or to a position with equivalent seniority

1 status, employee benefits, pay, and other terms and conditions
2 of employment. This section does not apply if the employer proves
3 that the employee was not restored because of conditions unrelated
4 to the employee's exercise of rights under the act.

5 (2) During any family military leave taken under the act,
6 the employer shall make it possible for employees to continue their
7 benefits at the employee's expense. The employer and employee may
8 negotiate for the employer to maintain benefits at the employer's
9 expense for the duration of the leave.

10 Sec. 5. (1) Taking family military leave under the Family
11 Military Leave Act shall not result in the loss of any employee
12 benefit accrued before the date on which the leave commenced.

13 (2) Nothing in the act shall be construed to affect
14 an employer's obligation to comply with any collective-bargaining
15 agreement or employee benefit plan that provides greater leave
16 rights to employees than the rights provided under the act.

17 (3) The family military leave rights provided under the
18 act shall not be diminished by any collective-bargaining agreement
19 or employee benefit plan.

20 (4) Nothing in the act shall be construed to affect
21 or diminish the contract rights or seniority status of any other
22 employee of any employer covered under the act.

23 Sec. 6. (1) An employer shall not interfere with,
24 restrain, or deny the exercise of or the attempt to exercise
25 any right provided under the Family Military Leave Act.

1 (2) An employer shall not discharge, fine, suspend,
2 expel, discipline, or in any other manner discriminate against any
3 employee who exercises any right provided under the act.

4 (3) An employer shall not discharge, fine, suspend,
5 expel, discipline, or in any other manner discriminate against any
6 employee for opposing any practice made unlawful by the act.

7 Sec. 7. A civil action may be brought in the district
8 court having jurisdiction by an employee to enforce the Family
9 Military Leave Act. The district court may enjoin any act or
10 practice that violates or may violate the Family Military Leave
11 Act and may order any other equitable relief that is necessary and
12 appropriate to redress the violation or to enforce the act.

13 Sec. 8. Since an emergency exists, this act takes effect
14 when passed and approved according to law.