

LEGISLATIVE BILL 497

Approved by the Governor April 4, 2007

Introduced by White, 8

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

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

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

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

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

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

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

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

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

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

Sec. 4. (1) Any employee who exercises the right to family military leave under the Family Military Leave Act, upon expiration of the leave, shall be entitled to be restored by the employer to the position held by the employee when the leave commenced or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. This section does not apply if the employer proves that the employee was not restored because of conditions unrelated to the employee's exercise of rights under the act.

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

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

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

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

plan.

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

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

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

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

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

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