

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1984

H.P. 1473 House of Representatives, January 7, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Labor suggested and ordered
printed.

EDWIN H. PERT, Clerk
Presented by Representative CLARK of Brunswick.

Cosponsored by Speaker MARTIN of Eagle Lake, Senator
CLARK of Cumberland, and Representative ZIRNKILTON of Mount
Desert.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 **AN ACT to Ensure Family Medical Leave in the State.**
2

3 Be it enacted by the People of the State of Maine as
4 follows:

5 26 MRSA c. 7, sub-c. VI-A is enacted to read:

6 SUBCHAPTER VI-A

7 FAMILY MEDICAL LEAVE REQUIREMENTS

8 §843. Definitions

1 As used in this subchapter, unless the context
2 otherwise indicates, the following terms have the
3 following meanings.

4 1. Employee. "Employee" means any person who may
5 be permitted, required or directed by an employer in
6 consideration of direct or indirect gain or profit to
7 engage in any employment.

8 2. Employee benefits. "Employee benefits" means
9 all benefits, other than salary and wages, provided or
10 made available to employees by an employer and
11 includes group life insurance, health insurance,
12 disability insurance, sick leave, annual leave,
13 educational benefits and pensions, regardless of
14 whether benefits are provided by a policy or practice
15 of an employer.

16 3. Employer. "Employer" means:

17 A. Any person, sole proprietorship, partnership,
18 corporation or other business entity that employs
19 10 or more employees;

20 B. The State, including the executive,
21 legislative and judicial branches, and any state
22 department or agency that employs any employees;

23 C. Any city, town or municipal agency that
24 employs 10 or more employees; and

25 D. Any person who acts directly or indirectly in
26 the interest of any employer.

27 4. Family medical leave. "Family medical leave"
28 means leave by reason of:

29 A. Birth of a child of an employee;

30 B. The placement of a child 16 years of age or

1 less with an employee in connection with the
2 adoption of the child by the employee; or

3 C. A seriously ill child, parent or spouse.

4 5. Seriously ill child, parent or spouse.
5 "Seriously ill child, parent or spouse" means a child
6 under the age of 18 years, parent or spouse who, by
7 reason of accident, disease or condition:

8 A. Is in imminent danger of death;

9 B. Faces hospitalization involving an organ
10 transplant, limb amputation or such other
11 procedure of similar severity; or

12 C. Is suffering from any mental or physical
13 condition that requires constant in-home care.

14 §844. Family medical leave requirement

15 1. Parental leave entitlement. Every employee
16 who has been employed by the same employer for 6
17 consecutive months shall be entitled, upon advance
18 notice to the employer, to 18 consecutive work weeks
19 of parental leave in any 2 calendar years. The
20 employee shall give at least 30 days' notice of the
21 intended date upon which family medical leave shall
22 commence and terminate, unless prevented by medical
23 emergency from giving that notice.

24 2. Unpaid leave. Family medical leave granted
25 pursuant to this subchapter may consist of unpaid
26 leave. If an employer provides paid parental leave
27 for fewer than 18 weeks, the additional weeks of leave
28 added to attain the total of 18 weeks required may be
29 unpaid.

30 §845. Employment and health benefits protection

31 1. Restoration. Any employee who exercises the
32 right to family medical leave under this subchapter,
33 upon expiration of the leave, shall be entitled to be
34 restored by the employer to the position held by the
35 employee when the leave commenced or to a position

1 with equivalent seniority status, employment benefits,
2 pay and other terms and conditions of employment.

3 2. Maintenance of benefits. During any family
4 medical leave taken pursuant to this subchapter, the
5 employer shall maintain any existing employee benefits
6 for the duration of the leave as if the employee had
7 continued in employment continuously from the date the
8 leave commenced until the date the employee returns to
9 employment.

10 §846. Effect on existing employment benefits

11 1. Benefit accrual. The taking of family medical
12 leave pursuant to this subchapter shall not result in
13 the loss of any benefit accrued before the date on
14 which the leave commenced.

15 2. Entitlement to benefits. Nothing in this
16 subchapter may be construed to entitle any employee,
17 who takes family medical leave pursuant to this
18 subchapter, to any benefit other than benefits to
19 which the employee would have been entitled had the
20 leave not been taken.

21 3. Effect on collective bargaining. Nothing in
22 this subchapter may be construed to affect an
23 employer's obligation to comply with any collective
24 bargaining agreement or employment benefit plan that
25 provides greater parental leave rights to employees
26 than the rights provided under this subchapter.

27 4. Rights not diminished. The parental leave
28 rights mandated by this subchapter shall not be
29 diminished by any collective bargaining agreement or
30 by any employment benefit plan.

31 5. Contract rights. Nothing in this subchapter
32 may be construed to affect or diminish the contract
33 rights or seniority status of any other employee of
34 any employer covered by this subchapter.

35 §847. Prohibited acts

1 1. Unlawful interference or denial of rights. It
2 is unlawful for any employer to interfere with,
3 restrain or deny the exercise of or the attempt to
4 exercise any right provided by this subchapter.

5 2. Unlawful discrimination for exercise of
6 rights. It is unlawful for any employer to discharge,
7 fine, suspend, expel, discipline or in any other
8 manner discriminate against any employee for
9 exercising any right provided by this subchapter.

10 3. Unlawful discrimination for opposition. It is
11 unlawful for any employer to discharge, fine, suspend,
12 expel, discipline or in any other manner discriminate
13 against any employee for opposing any practice made
14 unlawful by this subchapter.

15 §848 Judicial enforcement

16 A civil action may be brought in the appropriate
17 court by an employee against any employer to enforce
18 this subchapter. The court may enjoin any act or
19 practice that violates or may violate this subchapter
20 and may order such other equitable relief as is
21 necessary and appropriate to redress the violation or
22 to enforce this subchapter.

23 §849. Civil penalty for violations

24 Any employer who violates this subchapter, or any
25 order issued pursuant to it, commits a civil violation
26 and is subject to a civil forfeiture of not more than
27 \$1,000. In the case of a continuing violation, each
28 day's continuance shall be deemed to be a separate and
29 distinct offense.

30 STATEMENT OF FACT

31 The purpose of this bill is to provide job
32 protection for all workers. It allows for up to 18
33 weeks of unpaid leave to employees who have been

1 employed by the same employer for 6 consecutive
2 months. The unpaid leave may be used in the event of
3 childbirth, adoption or to care for an ill child,
4 parent or spouse.

5 As compared to the past, today's workforce
6 consists of new people, working under a new set of
7 working conditions. It is necessary for businesses to
8 recognize and adapt to these changes. The tremendous
9 increase of women, single parents and double income
10 families in today's workforce suggests the need for
11 social policies that will benefit these particular
12 needs. This bill directly addresses the new realities
13 of working parents and children who care for their
14 parents.

15 Children are our future; stronger families can
16 only promote a stronger society. Policies, such as
17 parental leave, support child-rearing as a social
18 imperative rather than solely a personal concern.
19 Such a policy decision strengthens a person's ability
20 to care for a child, spouse or parent while reducing
21 the potential for future social service expenditures.