

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1193

S.P. 399

In Senate, March 6, 2003

An Act To Strengthen the Family Medical Leave Laws

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator EDMONDS of Cumberland.
Cosponsored by Representative SMITH of Van Buren and
Senator: LaFOUNTAIN of York, Representatives: HATCH of Skowhegan, HUTTON of
Bowdoinham.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 26 MRSA §844**, as amended by PL 1997, c. 515, §1, is
5 further amended to read:

6 **§844. Family medical leave requirement**

7 **1. Family medical leave entitlement.** Every employee who
8 has been employed by the same employer for 12 consecutive months
9 is entitled to up to ~~10~~ 12 consecutive work weeks of family
10 medical leave in any 2 years unless employed at a permanent work
11 site with fewer than 15 employees. The following conditions
12 apply to family medical leave granted under this subchapter:

13 A. The employee must give at least 30 days' notice of the
14 intended date upon which family medical leave will commence
15 and terminate, unless prevented by medical emergency from
16 giving that notice;

17 B. The employer may require certification from a physician
18 to verify the amount of leave requested by the employee,
19 except that an employee who in good faith relies on
20 treatment by prayer or spiritual means, in accordance with
21 the tenets and practice of a recognized church or religious
22 denomination, may submit certification from an accredited
23 practitioner of those healing methods; and

24 C. The employer and employee may negotiate for more or less
25 leave, but both parties must agree.

26 **2. Unpaid leave.** Family medical leave granted under this
27 subchapter may consist of unpaid leave. If an employer provides
28 paid family medical leave for fewer than ~~10~~ 12 weeks, the
29 additional weeks of leave added to attain the total of ~~10~~ 12
30 weeks required may be unpaid.

31 **Sec. 2. 26 MRSA §848**, as enacted by PL 1987, c. 661, is
32 repealed and the following enacted in its place:

33 **§848. Judicial enforcement**

34 A civil action may be brought in the appropriate court by an
35 employee against any employer to enforce this subchapter. The
36 court may do any of the following.

37 **1. Enjoin act.** The court may enjoin any act or practice
38 that violates or may violate this subchapter.

39 **2. Equitable relief.** The court may order any other
40 equitable relief that is necessary and appropriate to redress the

2 violation or to enforce this subchapter, including requiring the
3 employer to pay to the employee as liquidated damages, including
4 interest, the greatest of:

5 A. One hundred dollars for each day the violation continues;

6 B. Actual wages, salary, benefits, employment benefits or
7 other compensation denied or lost to the employee as a
8 result of the violation; and

9 C. If there was no loss under paragraph B, the actual
10 monetary losses sustained by the employee as a direct result
11 of the violation, such as the cost of providing care, up to
12 a sum equal to 12 weeks of wages or salary for the employee.

13 3. Fees and costs. The court may order the employer to pay
14 reasonable attorney's fees, reasonable expert witness fees and
15 other costs of the action.

16 SUMMARY

17 This bill amends the family medical leave requirements to
18 reflect the requirements of the federal Family and Medical Leave
19 Act of 1993 by:

20 1. Extending the family medical leave entitlement to 12
21 weeks from 10 weeks; and

22 2. Allowing the court to award liquidated damages equal to
23 actual wages lost by the employee or costs paid by the employee
24 due to the violation. The court also may award reasonable
25 attorney's and expert witness fees as well as court costs.