

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1261

H.P. 889

House of Representatives, March 8, 2007

### **An Act To Clarify Intermittent Leave under the Family Medical Leave Laws**

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Reference to the Committee on Labor suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SIMPSON of Auburn.  
Cosponsored by Senator STRIMLING of Cumberland and  
Representatives: ADAMS of Portland, BRYANT of Windham, BURNS of Berwick,  
HASKELL of Portland, MILLS of Farmington, WATSON of Bath, Senators: President  
EDMONDS of Cumberland, SULLIVAN of York.

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

2 **Sec. 1. 26 MRSA §843, sub-§4-B** is enacted to read:

3 **4-B. Reduced leave schedule.** "Reduced leave schedule" means a leave schedule  
4 that reduces the usual number of hours per workweek, or hours per workday, of an  
5 employee.

6 **Sec. 2. 26 MRSA §844, sub-§1,** as amended by PL 1997, c. 515, §1, is further  
7 amended to read:

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

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

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

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

23 **Sec. 3. 26 MRSA §844, sub-§3** is enacted to read:

24 **3. Leave taken intermittently or on reduced leave schedule.** Intermittent or  
25 reduced leave schedule family medical leave may be taken subject to the following  
26 limitations:

27 A. Leave for a reason described in section 843, subsection 4, paragraph B or C may  
28 not be taken by an employee intermittently or on a reduced leave schedule unless the  
29 employee and the employer agree otherwise. Subject to subsection 1, paragraphs A  
30 and B, leave for a reason described in section 843, subsection 4, paragraph A, D or E  
31 may be taken intermittently or on a reduced leave schedule when medically  
32 necessary. The taking of leave intermittently or on a reduced leave schedule pursuant  
33 to this paragraph may not result in a reduction in the total amount of leave to which  
34 the employee is entitled under subsection 1 beyond the amount of leave actually  
35 taken.

36 B. If an employee requests intermittent leave, or leave on a reduced leave schedule,  
37 for a reason described in section 843, subsection 4, paragraph A, D or E that is  
38 foreseeable based on planned medical treatment, the employer may require such  
39 employee to transfer temporarily to an available alternative position offered by the  
40 employer for which the employee is qualified and that:

