

The Vermont Statutes Online

Title 21: Labor

Chapter 5: EMPLOYMENT PRACTICES

Sub-Chapter 4A: Parental And Family Leave

§ 470. Purpose

(a) Strong families are the foundation for a productive and competitive state. There are a growing number of single-parent families where the sole parent works and two-parent families where both parents work. Most people who work while raising families do so out of economic necessity.

(b) Leave from employment for the birth or adoption of a child or to care for a seriously ill family member addresses one of the important needs of changing family structures. The support of families is a principle recognized and valued by the state of Vermont. When employees have security about their employment and the well-being of their children, parents and other family members, businesses benefit economically from increased worker productivity and stability.

(c) The provisions of this subchapter are enacted in recognition of the fact that both employers and employees benefit from the establishment of parental and family leave as a condition of employment. (Added 1991, No. 260 (Adj. Sess.), § 2.)

§ 471. Definitions

As used in this subchapter:

(1) "Employer" means an individual, organization or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy and any common carrier by rail, motor, water, air or express company doing business in or operating within this state which for the purposes of parental leave, employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year and for the purposes of family leave, employs 15 or more individuals for an average of at least 30 hours per week during a year.

(2) "Employee" means a person who, in consideration of direct or indirect gain or profit, has been continuously employed by the same employer for a period of one year for an average of at least 30 hours per week.

(3) "Family leave" means a leave of absence from employment by an employee who works for an employer which employs 15 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(A) The serious illness of the employee.

(B) The serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, parent, spouse or parent of the employee's spouse.

(4) "Parental leave" means a leave of absence from employment by an employee who works for an employer which employs 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(A) The birth of the employee's child.

(B) The initial placement of a child 16 years of age or younger with the employee for the purpose of adoption.

(5) "Serious illness" means an accident, disease or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician. (Added 1989, No. 83, § 1; amended 1989, No. 150 (Adj. Sess.), § 2; 1991, No. 260 (Adj. Sess.), § 3.)

§ 472. Leave

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks:

(1) for parental leave, during the employee's pregnancy and following the birth of an employee's child or within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption.

(2) for family leave, for the serious illness of the employee or the employee's child, stepchild or ward of the employee who lives with the employee, foster child, parent, spouse or parent of the employee's spouse.

(b) During the leave, at the employee's option, the employee may use accrued sick leave or vacation leave or any other accrued paid leave, not to exceed six weeks. Utilization of accrued paid leave shall not extend the leave provided herein.

(c) The employer shall continue employment benefits for the duration of the leave at the level and under the conditions coverage would be provided if the employee continued in employment

continuously for the duration of the leave. The employer may require that the employee contribute to the cost of the benefits during the leave at the existing rate of employee contribution.

(d) The employer shall post and maintain in a conspicuous place in and about each of his or her places of business printed notices of the provisions of this subchapter on forms provided by the commissioner of labor.

(e) An employee shall give reasonable written notice of intent to take leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave. In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave. In the case of serious illness of the employee or a member of the employee's family, an employer may require certification from a physician to verify the condition and the amount and necessity for the leave requested. An employee may return from leave earlier than estimated upon approval of the employer. An employee shall provide reasonable notice to the employer of his or her need to extend leave to the extent provided by this chapter.

(f) Upon return from leave taken under this subchapter, an employee shall be offered the same or comparable job at the same level of compensation, employment benefits, seniority or any other term or condition of the employment existing on the day leave began. This subchapter shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate. This subsection shall not apply if the employer can demonstrate by clear and convincing evidence that:

(1) during the period of leave the employee's job would have been terminated or the employee laid off for reasons unrelated to the leave or the condition for which the leave was granted; or

(2) the employee performed unique services and hiring a permanent replacement during the leave, after giving reasonable notice to the employee of intent to do so, was the only alternative available to the employer to prevent substantial and grievous economic injury to the employer's operation.

(g) An employer may adopt a leave policy more generous than the leave policy provided by this subchapter. Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan which provides greater leave rights than the rights provided by this subchapter. A collective bargaining agreement or employment benefit program or plan may not diminish rights provided by this subchapter. Notwithstanding the provisions of this subchapter, an employee may, at the time a need for parental or family leave arises, waive some or all the rights under this subchapter provided the waiver is informed and voluntary and any changes in conditions of employment related to any waiver shall be mutually agreed upon between employer and employee.

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments for accrued sick leave or vacation leave. (Added 1989, No. 83, § 1; amended 1991, No. 260 (Adj. Sess.), § 4; 1997, No. 41, § 1; 2005, No. 103 (Adj. Sess.), § 3, eff. April 5, 2006.)

§ 472a. Short-term family leave

(a) In addition to the leave provided in section 472 of this title, an employee shall be entitled to take unpaid leave not to exceed four hours in any 30-day period and not to exceed 24 hours in any 12-month period. An employer may require that leave be taken in a minimum of two-hour segments and may be taken for any of the following purposes:

(1) To participate in preschool or school activities directly related to the academic educational advancement of the employee's child, stepchild, foster child or ward who lives with the employee, such as a parent-teacher conference.

(2) To attend or to accompany the employee's child, stepchild, foster child or ward who lives with the employee or the employee's parent, spouse or parent-in-law to routine medical or dental appointments.

(3) To accompany the employee's parent, spouse or parent-in-law to other appointments for professional services related to their care and well-being.

(4) To respond to a medical emergency involving the employee's child, stepchild, foster child or ward who lives with the employee or the employee's parent, spouse or parent-in-law.

(b) An employee shall make a reasonable attempt to schedule appointments for which leave may be taken under this section outside of regular work hours. In order to take leave under this section, an employee shall provide the employer with the earliest possible notice, but in no case later than seven days, before leave is to be taken except in the case of an emergency. In this subsection "emergency" means circumstances where the required seven day notice could have a significant adverse impact on the family member of the employee.

(c) At the employee's discretion, the employee may use accrued paid leave, including vacation and personal leave. (Added 1997, No. 41, § 2.)

§ 472b. Town meeting leave; employees; students

(a) Subject to the essential operation of a business or entity of State or local government, which shall prevail in any instance of conflict, an employee shall have the right to take unpaid leave from employment under this section or subsection 472(b) of this title for the purpose of attending his or her annual town meeting, provided the employee notifies the employer at least seven days prior to the date of the town meeting.

(b) A student of voting age shall have the right to attend his or her annual town meeting, and the school shall not penalize or report the student as a truant for exercising the right provided by this section.

(c) The requirement of subsection (b) shall not apply to a student who is in state custody in a secure facility.

(d) The requirement of subsection (b) shall not create an obligation for any parent, guardian, or custodian to take any affirmative action to enable the student to attend an annual town meeting. (Added 2007, No. 124 (Adj. Sess.), § 1; amended 2013, No. 31, § 5.)

§ 473. Retaliation prohibited

An employer shall not discharge or in any other manner retaliate against an employee who exercises or attempts to exercise his or her rights under this subchapter. The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this subchapter. (Added 1989, No. 83, § 1; amended 2013, No. 31, § 7.)

§ 474. Penalties and enforcement

(a) The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this subchapter.

(b) An employer may bring a civil action to recover compensation paid to the employee during leave, except payments made for accrued sick leave or vacation leave and court costs to enforce the provisions of subsection 472(h) of this title. (Added 1989, No. 83, § 1; amended 2013, No. 31, § 8.)