## **HOUSE BILL 712**

K3 0lr2781 CF SB 260

## By: Delegates Boyce, Bridges, Conaway, Haynes, Lehman, Shetty, Smith, Wells, and P. Young

Introduced and read first time: January 30, 2020

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2020

CHAPTER

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1 /	$\mathbf{A} \mathbf{N}$	ACT	conce:	rnıng

- 2 Labor and Employment Leave With Pay Bereavement Leave 3 (Family Bereavement Act)
- FOR the purpose of authorizing employees of certain employers to use certain leave with pay for bereavement leave; making a conforming change; defining the term "bereavement leave"; and generally relating to an employee's use of leave with pay for bereavement leave.
- 8 BY repealing and reenacting, with amendments,
- 9 Article Labor and Employment
- 10 Section 3–802
- 11 Annotated Code of Maryland
- 12 (2016 Replacement Volume and 2019 Supplement)
- 13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 14 That the Laws of Maryland read as follows:

## Article – Labor and Employment

16 3–802.

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17 (a) (1) In this section the following words have the meanings indicated.

## EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



$\frac{1}{2}$	(2) "BEREAVEMENT LEAVE" MEANS LEAVE AN EMPLOYEE I ALLOWED TO USE ON THE DEATH OF:			
3	<del>(I)</del>	A MEMBER OF THE EMPLOYEE'S IMMEDIATE FAMILY; OR		
4	<del>(II)</del>	THE EMPLOYEE'S PET.		
5 6	[(2)] (3) or a legal ward who is:	"Child" means an adopted, biological, or foster child, a stepchild,		
7	(i)	under the age of 18 years; or		
8 9	(ii) or physical disability.	at least 18 years old and incapable of self-care due to a mental		
10 11	[(3)] (4) (i) "Employer" means a person that is engaged in a business, industry, profession, trade, or other enterprise in the State.			
12 13	(ii) "Employer" includes a person who acts directly or indirectly in the interest of another employer with an employee.			
14	[(4)] <b>(5)</b>	"Immediate family" means a child, spouse, or parent.		
15 16	[(5)] (6) (i) "Leave with pay" means paid time away from work that is earned and available to an employee:			
17		1. based on hours worked; or		
18 19	leave for performance of	2. as an annual grant of a fixed number of hours or days of service.		
20 21	(ii) and compensatory time.	"Leave with pay" includes sick leave, vacation time, paid time off,		
22	(iii)	"Leave with pay" does not include:		
23 24	1. a benefit provided under an employee welfare benefit plan subject to the federal Employee Retirement Income Security Act of 1974;			
25 26	employer's self–insured p	2. an insurance benefit, including benefits from an olan;		
27		3. workers' compensation;		
28		4. unemployment compensation;		

1	5. a disability benefit; or
2	6. a similar benefit.
3 4	[(6)] (7) "Parent" means an adoptive, biological, or foster parent, a stepparent, a legal guardian, or a person standing in loco parentis.
5 6	(b) (1) This section applies to an employee who is primarily employed in the State.
7	(2) This section applies to an employer that:
8	(i) provides leave with pay under the terms of a collective bargaining agreement or an employment policy; and
10 11	(ii) employs $15$ or more employees for each working day in each of $20$ or more calendar weeks in the current or preceding calendar year.
12 13 14 15	(c) The purpose of [this section] SUBSECTION (D)(1)(I) is to allow an employee of an employer to use leave with pay to care for an immediate family member who is ill under the same conditions and policy rules that would apply if the employee took leave for the employee's own illness.
6	(d) (1) An employee of an employer may use leave with pay for:
17	(I) the illness of the employee's immediate family; OR
18	(II) BEREAVEMENT LEAVE.
19 20	(2) An agreement between an employer and employee to waive the provisions of this section is void.
21	(e) (1) An employee of an employer:
22 23	(i) may only use leave with pay under this section that has been earned; and
24	(ii) who earns more than one type of leave with pay may elect the type and amount of leave with pay to be used under this section.
26 27 28	(2) Except as provided in paragraph (3) of this subsection, an employee of an employer who uses leave under this section shall comply with the terms of a collective bargaining agreement or employment policy.
29 30	(3) If the terms of a collective bargaining agreement with an employer or an employment policy of an employer provide a leave with pay benefit that is equal to or

- greater than the benefit provided under this section, the collective bargaining agreement or employment policy prevails.
- 3 (f) An employer may not discharge, demote, suspend, discipline, or otherwise 4 discriminate against an employee or threaten to take any of these actions against an 5 employee because the employee:
- 6 (1) has requested leave authorized under this section;
- 7 (2) has taken leave authorized under this section;
- 8 (3) has opposed a practice made unlawful by this section; or
- 9 (4) has made a charge, testified, assisted, or participated in an 10 investigation, proceeding, or hearing under this section.
- 11 (g) This section does not:
- 12 (1) extend the maximum period of leave an employee has under the federal 13 Family and Medical Leave Act of 1993; or
- 14 (2) limit the period of leave to which an employee is entitled under the 15 federal Family and Medical Leave Act of 1993.
- 16 (h) (1) Whenever the Commissioner determines that this section has been 17 violated, the Commissioner shall:
- 18 (i) try to resolve any issue involved in the violation informally by 19 mediation; or
- 20 (ii) ask the Attorney General to bring an action on behalf of the 21 applicant or employee.
- 22 (2) The Attorney General may bring an action under this subsection in the 23 county where the violation allegedly occurred for injunctive relief, damages, or other relief.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.