

HOUSE BILL 56

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(PRE-FILED)

11r0382
CF SB 473

By: **Delegate Boyce**

Requested: June 19, 2020

Introduced and read first time: January 13, 2021

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 18, 2021

CHAPTER _____

1 AN ACT concerning

2 **Labor and Employment – Leave With Pay – Bereavement Leave**

3 FOR the purpose of authorizing employees of certain employers to use certain leave with
4 pay for bereavement leave; making a conforming change; defining the term
5 “bereavement leave”; defining the term “child” for purposes of certain bereavement
6 leave; and generally relating to an employee’s use of leave with pay for bereavement
7 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 2020 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – Labor and Employment**

16 3–802.

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.

Underlining indicates amendments to bill.

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



1 **(2) “BEREAVEMENT LEAVE” MEANS LEAVE AN EMPLOYEE IS**
2 **ALLOWED TO USE ON THE DEATH OF A MEMBER OF THE EMPLOYEE’S IMMEDIATE**
3 **FAMILY.**

4 **[(2)] (3)** “Child” means:

5 **(I) FOR THE PURPOSES OF LEAVE PROVIDED UNDER**
6 **SUBSECTION (D)(1)(I) OF THIS SECTION,** an adopted, biological, or foster child, a
7 stepchild, or a legal ward who is:

8 **[(i)] 1.** under the age of 18 years; or

9 **[(ii)] 2.** at least 18 years old and incapable of self-care due to a
10 mental or physical disability; **OR**

11 **(II) FOR THE PURPOSES OF BEREAVEMENT LEAVE UNDER**
12 **SUBSECTION (D)(1)(II) OF THIS SECTION, AN ADOPTED, BIOLOGICAL, OR FOSTER**
13 **CHILD, A STEPCHILD, OR A LEGAL WARD.**

14 **[(3)] (4)** (i) “Employer” means a person that is engaged in a business,
15 industry, profession, trade, or other enterprise in the State.

16 (ii) “Employer” includes a person who acts directly or indirectly in
17 the interest of another employer with an employee.

18 **[(4)] (5)** “Immediate family” means a child, spouse, or parent.

19 **[(5)] (6)** (i) “Leave with pay” means paid time away from work that is
20 earned and available to an employee:

21 1. based on hours worked; or

22 2. as an annual grant of a fixed number of hours or days of
23 leave for performance of service.

24 (ii) “Leave with pay” includes sick leave, vacation time, paid time off,
25 and compensatory time.

26 (iii) “Leave with pay” does not include:

27 1. a benefit provided under an employee welfare benefit plan
28 subject to the federal Employee Retirement Income Security Act of 1974;

29 2. an insurance benefit, including benefits from an
30 employer’s self-insured plan;

- 1 3. workers' compensation;
- 2 4. unemployment compensation;
- 3 5. a disability benefit; or
- 4 6. a similar benefit.

5 ~~[(6)] (7)~~ "Parent" means an adoptive, biological, or foster parent, a
6 stepparent, a legal guardian, or a person standing in loco parentis.

7 (b) (1) This section applies to an employee who is primarily employed in the
8 State.

9 (2) This section applies to an employer that:

10 (i) provides leave with pay under the terms of a collective
11 bargaining agreement or an employment policy; and

12 (ii) employs 15 or more employees for each working day in each of 20
13 or more calendar weeks in the current or preceding calendar year.

14 (c) The purpose of [this section] **SUBSECTION (D)(1)(I)** is to allow an employee
15 of an employer to use leave with pay to care for an immediate family member who is ill
16 under the same conditions and policy rules that would apply if the employee took leave for
17 the employee's own illness.

18 (d) (1) An employee of an employer may use leave with pay for:

19 **(I)** the illness of the employee's immediate family; **OR**

20 **(II) BEREAVEMENT LEAVE.**

21 (2) An agreement between an employer and employee to waive the
22 provisions of this section is void.

23 (e) (1) An employee of an employer:

24 (i) may only use leave with pay under this section that has been
25 earned; and

26 (ii) who earns more than one type of leave with pay may elect the
27 type and amount of leave with pay to be used under this section.

28 (2) Except as provided in paragraph (3) of this subsection, an employee of
29 an employer who uses leave under this section shall comply with the terms of a collective
30 bargaining agreement or employment policy.

1 (3) If the terms of a collective bargaining agreement with an employer or
2 an employment policy of an employer provide a leave with pay benefit that is equal to or
3 greater than the benefit provided under this section, the collective bargaining agreement
4 or employment policy prevails.

5 (f) An employer may not discharge, demote, suspend, discipline, or otherwise
6 discriminate against an employee or threaten to take any of these actions against an
7 employee because the employee:

8 (1) has requested leave authorized under this section;

9 (2) has taken leave authorized under this section;

10 (3) has opposed a practice made unlawful by this section; or

11 (4) has made a charge, testified, assisted, or participated in an
12 investigation, proceeding, or hearing under this section.

13 (g) This section does not:

14 (1) extend the maximum period of leave an employee has under the federal
15 Family and Medical Leave Act of 1993; or

16 (2) limit the period of leave to which an employee is entitled under the
17 federal Family and Medical Leave Act of 1993.

18 (h) (1) Whenever the Commissioner determines that this section has been
19 violated, the Commissioner shall:

20 (i) try to resolve any issue involved in the violation informally by
21 mediation; or

22 (ii) ask the Attorney General to bring an action on behalf of the
23 applicant or employee.

24 (2) The Attorney General may bring an action under this subsection in the
25 county where the violation allegedly occurred for injunctive relief, damages, or other relief.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2021.