

SB

124



**STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS**

DEPARTMENT Health and Social Services	DIVISION Family and Youth Services	BILL NUMBER SB 124	SPONSOR Josephson
DEPARTMENT POSITION Support in Concept			
PREPARED BY Yvonne M. Chase, Director	DATE 4/8/87	COMMISSIONER'S SIGNATURE <i>Megha M. Munson</i>	DATE 4/15/87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL State Retirement and Benefits	CONSTITUENT GROUP(S) AFFECTED BY BILL Employers
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OP. OSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

To provide support to infants and working parents by mandating that employers allow parents reasonable leave from work at the time a child is born or adopted or placed into foster care.

ANALYSIS OF BILL/PROGRAM EFFECTS

Maternity leave for working parents is a need for the majority of families in Alaska and the U.S. In 46% of households in Alaska containing two parents, both work outside the home. 11% of Alaska's families are headed by a single parent and 60% of single mothers with children under age six are in the labor force. Research indicates that adjustment or bonding to newborns is seriously impaired if parents are not allowed to spend adequate time with the newborn. Positive adjustment of the family to any new family member is more likely if parents are provided an opportunity to bond with the child immediately after the placement.

AMENDMENTS PROPOSED

Due to the wide range of foster care situations and the number of placements which realistically may be made into a single foster home within a year, it is recommended that leave for placements into foster homes be either restricted in length of time or that leave be restricted to foster placements that are intended to be permanent at the time the placement is made. Generally, the recruitment of foster homes for preschool age children is focused on families in which one parent does not work outside the home since the adjustment of young children who have been removed involuntary from the parental home requires more support and attention than could generally be provided in a home in which both parents work.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Opinion

Parental leave policy may cost jobs

By Gary Jenkins

Advocates of the parental leave concept would have us believe that it is as innately American as apple pie and baseball. After all, everybody recognizes the benefits of post-natal bonding. And requiring businesses to give employees four months of leave to care for newborns seems, at first glance, natural and desirable.

But take a second look. Parental leave is not without cost to employees as well as employers. If we're smart, we'll take a lesson from Europe. There, mandated parental leave has led to decreased economic growth, as well as a decline in full-time job opportunities for women.

Bills requiring employers to grant parental leave are now before the Alaska legislature and Congress. In Juneau, Rep. Kay Brown (D-Anchorage) has introduced H.B. 224. This bill would require all businesses with 15 or more employees to grant up to 18 weeks of leave to men and women for care of newborn (and adopted) infants and guarantee their job (or an equivalent) upon return. It is patterned after a bill introduced in Congress by Rep. Pat Schroeder (D-Colorado).

While everybody is in favor of strengthening the family unit, the passage of restrictive legislation that would weaken the economy of our state and the nation is not the answer. The National Federation of Independent Business, the nation's largest small-business organization, has taken the lead in opposing the parental leave bills because they would hit small-business owners particularly hard.

Why care about the impact on small business? Because 70 to 80 percent of all new jobs created in the nation today come from the small-business sector, not the Fortune 500, which actually lost three million jobs between 1980-1983. At a time when the President and Congress have widely acknowledged that our nation is on the brink of losing its competitiveness, placing such burdens as mandated parental leave on our most productive economic resource is unwise.

There is no such thing as a free lunch, and there is no such

thing as a free benefit.

The major European countries — France, Germany, England, Holland — all require paid, or partially paid, leave for mothers for 12 to 36 weeks. Between 1969-1984, according to Europe's Organization of Economic Cooperation and Development (OECD), employment in these countries grew less than 10 percent (Germany and England actually lost jobs). By comparison, employment in the United States grew by 36 percent.

While mandated benefits reduce job growth overall, mandated maternal leave especially reduced full-time employment opportunities for women. A comparison of the major European countries plus Sweden and Japan (which also mandate maternal leave) shows that between 1973 and 1983, growth of full-time employment of women has been flat. However, in the United States, which has no such requirement, the number of women workers has grown by more than 36 percent in the same period.

During this period, these European countries have experienced major growth in part-time employment for women. Employers — reluctant to incur the costs of providing maternal leave — chose to hire women as part-time workers (who are exempt from the benefit).

Part-time employment, of course, eliminates the possibility of any serious career advancement. Therefore, relegating women to part-time employment would mean a return to the days when females were economically dependent upon males and worked primarily for "pin money."

U.S. Rep. Schroeder has stated that parental leave should be seen as a "minimum labor standard" rather than a fringe benefit — not unlike child labor laws or wage and hour laws.

Should mandated employee benefits such as parental leave and medical leave become "family rights," they will pre-empt the economic discretion of the individual employer.

At the 1986 White House Conference on Small Business attended by 2,000 business owners from across the country, dele-

gates named mandated benefits as the top issue facing them nationwide. Small businesses — because of their small work force and fluctuating work loads — need to be able to negotiate individually with employees over hours, wages and benefits.

Health insurance is the most common type of fringe benefit provided to employees in small businesses. Yet over one-third of small-business employers do not provide coverage, largely because of work-force composition or cost. Clearly, mandating benefits, such as parental leave or health insurance, is likely to result in the elimination of jobs altogether.

Mandated parental leave would be a particularly onerous requirement for small business because small companies cannot operate efficiently while tolerating vacancies among very limited numbers of employees.

Large companies, with hundreds or thousands of employees, are often able to transfer workers or shift work loads to cover absent employees. In fact, because of this ability, many large companies already offer maternal leave to their employees.

Smaller companies cannot afford the cost of training new workers to fill temporary vacancies or the expense of making room for employees who return after an absence of several months.

These expenses are high, in many cases prohibitive, for small-business employers. For example, studies have found that the cost of replacing a skilled clerical worker in Washington, DC for 18 weeks was \$5,188.

It is hidden, added costs like these that have caused problems in Europe. As noted earlier, the European countries in which employees receive increasing numbers of non-wage benefits have not created any additional new jobs since 1975. America's small, entrepreneurial businesses were responsible for the creation of one million new jobs during the recessions years 1980-83, while large businesses had a net decline.

Gary Jenkins is state director of the National Federation of Independent Business/Alaska, the state's largest small-business organization with 3,300 members.

MAR 9 1987

March 5, 1987

Senator Paul Fischer
Chairperson
Health, Education, and Social Services Committee
Alaska State Senate
Juneau, Alaska

Dear Senator Fischer:

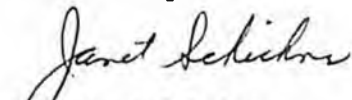
I am writing to you in support of SB 124, a bill regarding parental leave. In my opinion, this is one of the most important issues facing families today. As you know, Alaska has one of the highest percentages of working women in the country. In today's economy, two incomes are a necessity for many families. The birth of a new child is a joyful time, but it can also be stressful. To have to make a decision to return to work too soon, before a woman has her energy back or has bonded well with the baby is a cruel choice. However, many women are faced with such a decision in order to keep their jobs. Many women have had to quit jobs in which they have accumulated seniority and all its attendant benefits, such as job preference, higher salaries, years into a retirement systems, etc. simply because they could not be granted an adequate leave.

SB 124 is a good start toward alleviating these conflicts. It would guarantee up to 18 weeks of unpaid leave to either parent upon the birth or adoption of a child. It would exempt small businesses in order to avoid economic hardship to them. Finally, a parent would be sure that he or she will have a job to return to.

I urge you as strongly as I possibly can to support this bill and recommend it out of your committee. The United States is the only industrialized country which has no national parental leave policies. I believe this bill is a modest step in the right direction.

Thank you for your consideration. I look forward to hearing from you about this issue.

Sincerely,



Janet Schichnes
Box 621
Dillingham, AK.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 124
Publish Date: _____

REQUEST _____

Revision Date: _____ Agency Affected: A11
Title: An Act Relating to Employment Rights BRU: A11
on Pregnancy, Child Birth, and Adoption
Sponsor: Josephson Components: A11
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	Ø	Ø	Ø	Ø	Ø	Ø
TRAVEL	Ø	Ø	Ø	Ø	Ø	Ø
CONTRACTUAL	Ø	Ø	Ø	Ø	Ø	Ø
SUPPLIES	Ø	Ø	Ø	Ø	Ø	Ø
EQUIPMENT	Ø	Ø	Ø	Ø	Ø	Ø
LAND & STRUCTURES	Ø	Ø	Ø	Ø	Ø	Ø
GRANTS, CLAIMS	Ø	Ø	Ø	Ø	Ø	Ø
MISCELLANEOUS	Ø	Ø	Ø	Ø	Ø	Ø
TOTAL OPERATING	Ø	Ø	Ø	Ø	Ø	Ø
CAPITAL	Ø	Ø	Ø	Ø	Ø	Ø
REVENUE	Ø	Ø	Ø	Ø	Ø	Ø

FUNDING: (Thousands of Dollars)

GENERAL FUND	Ø	Ø	Ø	Ø	Ø	Ø
FEDERAL FUNDS	Ø	Ø	Ø	Ø	Ø	Ø
OTHER	Ø	Ø	Ø	Ø	Ø	Ø
TOTAL	Ø	Ø	Ø	Ø	Ø	Ø

POSITIONS:

FULL-TIME	Ø	Ø	Ø	Ø	Ø	Ø
PART-TIME	Ø	Ø	Ø	Ø	Ø	Ø
TEMPORARY	Ø	Ø	Ø	Ø	Ø	Ø

ANALYSIS: Attach a separate page if necessary

SB 124 will not cause an increase in expenditures.

Prepared By: Diana DeSimone *Diana DeSimone* Phone: 465-4430
Division: Personnel Date: 2/17/87

Approved by Commissioner: Garrey Peska *GP* Date: 2/12/87
Agency: Department of Administration

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

POSITION PAPER

For SB 124

Senate Bill 124 outlines the conditions and rights of employees and employers in regards to leave and medical insurance associated with the birth, adoption, or foster placement of a child and provides for continuing employment upon return from such leave.

The provisions concerning medical insurance and return employment rights are not inconsistent with current State practice. The proposed legislation would, however, make changes to existing State policy and practice concerning leave associated with childbirth and adoption. Current law [AS 39.20.225(b)(4)] entitles a female officer or employee to a maximum of nine weeks of leave for childbirth. Current collective bargaining agreements are consistent in providing nine weeks, and would not be affected by this proposed legislation as written. SB 124 would 1) increase the maximum leave entitlement associated with childbirth to 18 weeks; 2) provide a leave entitlement for adoption or foster placement; and 3) entitle male employees to take leave in association with the birth or placement of a child.

As the language is proposed, it appears that each parent would be eligible to take 18 weeks of leave, for a total of 36 weeks of family leave associated with the birth, adoption, or foster placement of a child. For an employer employing both parents, such a requirement may prove burdensome. The Department of Administration, Division of Personnel, suggests consideration of the following additional language on page 2, following line 18:

Unless a longer period of leave is authorized under (a) of this section, a single employer need not provide its employees more than a total of 18 weeks of family leave associated with each instance of childbirth, adoption, or foster placement.

If this proposed legislation were to become law, Title 18 would be inconsistent with Title 39.

To provide for consistency in statute, the Department of Administration, Division of Personnel, recommends that AS 39.20.225 be amended as follows:

Sec. 39.20.225. Use of personal leave. (a) An officer or employee may take personal leave at any time business permits upon permission by the head of the department or agency for which the officer or employee works.

(b) An officer or employee may take personal leave for medical reasons, regardless of whether business permits, upon permission by the head of the department or agency for which the officer or employee works. A department or agency head shall grant personal leave for medical reasons if the department or agency head is satisfied that the officer or employee is absent for medical reasons. The taking of personal leave for medical reasons shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30). The following constitute "medical reasons" and are subject to the conditions noted:

(1) Medical disability of an officer or employee is a medical reasons for taking personal leave. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(2) Medical disability of a member of an officer's or employee's immediate family is a medical reason for taking personal leave if the disability is such that the attendance of the officer or employee is required. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(3) A medical condition of an officer or employee that makes presence at work a danger to the health of fellow employees is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the condition if the absence exceeds three consecutive working days.


[(4) PREGNANCY AND CHILDBIRTH IS A MEDICAL REASON FOR A FEMALE OFFICER OR EMPLOYEE TO TAKE PERSONAL LEAVE. A FEMALE OFFICER OR EMPLOYEE, OTHERWISE QUALIFIED FOR A LEAVE OF ABSENCE, IS ENTITLED TO TAKE A MAXIMUM OF NINE WEEKS LEAVE IMMEDIATELY PRECEDING AND FOLLOWING CHILDBIRTH. IF THE OFFICER'S OR EMPLOYEE'S ACCRUED PERSONAL LEAVE IS INSUFFICIENT FOR THIS PURPOSE, THE OFFICER OR EMPLOYEE IS ENTITLED TO TAKE LEAVE WITHOUT PAY FOR THE BALANCE OF THE NINE-WEEK PERIOD.]

[(5)] (4) Death of a member of an officer's or employee's immediate family is a medical reasons for taking personal leave. No more than five days of personal leave may be taken for this purpose.

(c) An officer or employee, otherwise qualified for a leave of absence, is entitled to take a maximum of 18 weeks of leave immediately preceding and following the birth of a child or the placement of a child with the officer or employee for adoption or foster care. If the officer's or employee's accrued personal leave is insufficient for this purpose, the officer or employee is entitled to take leave without pay for the balance of the 18-week period. For each instance of childbirth, adoption, or foster placement of a child, officers or employees are entitled to a total of 18 weeks of leave under this section.

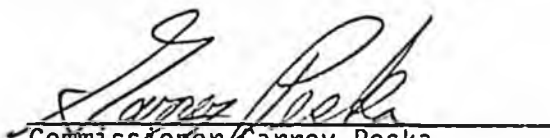
[(c)] (d) Each officer and employee shall, during each 12-month period, take at least five days of personal leave. If the officer or employee does not take at least five days of personal leave during a 12-month period, the difference between five days and the amount of personal leave taken shall be canceled without pay unless the department or agency head certifies in writing that the officer or employee was denied the opportunity to take five days of personal leave during the 12-month period.

The Department of Administration, Division of Personnel, is neutral on this legislation.



Diana DeSimone
Director
Division of Personnel

2/24/87
Date



Commissioner Garrey Peska
Department of Administration

2/24/87
Date

Introduced: 2/12/87
Referred: Health, Education and
Social Services, Labor
and Commerce and Finance

5-0401A

1 IN THE SENATE

BY JOSEPHSON

2 SENATE BILL NO. 124

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to employment rights based on preg-
7 nancy, childbirth, and adoption."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

10 (1) the number of single-parent households and two-parent house-
11 holds in which the single parent or both parents work is increasing signif-
12 icantly;

13 (2) it is important to the development of a child and to the
14 family unit that parents be able to participate in early childrearing; and

15 (3) the lack of employment opportunities to accommodate working
16 parents can force individuals to choose between job security and parenting.

17 (b) The legislature declares that the purposes of this Act are

18 (1) to balance the demands of the workplace with the needs of
19 families, and to promote stability and economic security in families;

20 (2) to entitle employees to take reasonable leave for the birth
21 or adoption of a child; and

22 (3) to accommodate the legitimate interests of employers.

23 * Sec. 2. AS 18.80 is amended by adding a new section to read:

24 Sec. 18.80.225. PREGNANCY, CHILDBIRTH, AND RELATED CONDITIONS.

25 (a) An employer shall allow an employee whose health is affected by
26 pregnancy, childbirth, or a related medical condition to receive the
27 same benefits or privileges of employment granted by that employer to
28 other persons not so affected who are similar in their ability or
29 inability to work, including allowing the employee to take disability
S

1 or sick leave or other accrued leave that the employer makes available
2 to temporarily disabled employees. However, an employer is not re-
3 quired to provide an employee health insurance coverage for the med-
4 ical costs of pregnancy, childbirth, or a related medical condition.
5 The inclusion in health insurance coverage of provisions or coverage
6 relating to medical costs of pregnancy, childbirth, or a related
7 medical condition does not require the inclusion of other provisions
8 or coverage. Coverage of a related medical condition is not required
9 by virtue of coverage of medical costs of pregnancy, childbirth, or
10 another related medical condition.

11 (b) An employer shall permit an employee to take family leave
12 for a total of 18 workweeks because of the birth of a child of the
13 employee or the placement of a child with the employee for adoption or
14 foster care. The employee may use accrued vacation leave during this
15 period. The leave shall be taken immediately preceding and immediate-
16 ly following the birth or placement of the child. If the employee is
17 entitled to a longer period of time under (a) of this section, then
18 the longer period applies.

19 (c) An employer may require an employee who plans to take leave
20 under (a) or (b) of this section to give the employer reasonable
21 notice of the date the leave will commence and the estimated duration
22 of the leave.

23 (d) When an employee returns from leave under (a) or (b) of this
24 section, the employer shall restore the employee

25 (1) to the position of employment held by the employee when
26 the leave began; or

27 (2) to an equivalent position with equivalent employment
28 benefits, pay, and other terms and conditions of employment.

29 (e) An employer may not refuse to temporarily transfer a

1 pregnant employee to a less strenuous or less hazardous position if
2 the employee requests the transfer and

3 (1) the employer has a policy, practice, or collective bar-
4 gaining agreement requiring or permitting the transfer of temporarily
5 disabled employees to less strenuous or less hazardous positions for
6 the duration of the disability; or

7 (2) the request is based on a physician's advice and can be
8 reasonably accommodated.

9 (f) This section does not require an employer to

10 (1) create additional employment that the employer would
11 not otherwise have created; or

12 (2) discharge an employee, transfer an employee with more
13 seniority, or promote an employee who is not qualified for the new
14 position.

15 (g) This section does not affect any other provision of law
16 relating to sex discrimination or pregnancy.

17 (h) This section applies to an employer only if the employer
18 employs at least 15 employees for each working day during each of at
19 least 20 calendar workweeks in either the current calendar year or the
20 preceding calendar year. However, this section does not apply to a
21 facility of an employer at which fewer than 15 employees are employed
22 if the combined number of employees employed by the employer within
23 200 miles of the facility is fewer than 15.
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