

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
5897 HOUSE LABOR & COMMERCE

30/

Fiscal Note Analysis  
for  
"An Act relating to Unemployment Insurance..."

Two sections of this bill carry expenditure impact; one section will generate revenue.

Section 15 would pay unemployment benefits to individuals who attend school if they became laid off while both attending school and working at least thirty hours a week.

There would be a cost to the State if state employees were laid off and qualified under this bill for unemployment benefits. Under existing law, the State reimburses the Unemployment Insurance Trust Fund for benefits paid to its employees. We estimate that 7 employees a year would qualify for benefits. At an average benefit of \$2,000 each, this would equate to \$14,000 a year.

Section 25 would change the provisions for dependent allowance. Both parents would receive the allowance if they are unemployed at the same time. We estimate this would cost the State \$30,000 per year in benefits to unemployed state employees.

The total impact of these two provisions would be \$44,000 per year. However, since approximately 70% of the state operating budget is general funds, we estimate that \$30,800 (70% of \$44,000) of general fund money would be used while \$13,200 would be other funds. Other funds include federal, inter-agency, user fees, etc.

Section 19 of this bill provides for a penalty of 50% to be assessed claimants who are disqualified for fraudulent receipt of UI benefits. When collected, this penalty will be deposited in the General Fund as unrestricted revenue. The calculations used to arrive at estimated anticipated revenues are as follows:

- |   |            |
|---|------------|
| 1. Total detected fraudulent payments made per year   | \$500,000. |
| 2. 50% penalty on detected fraudulent payments        | \$250,000. |
| 3. A 60% collection rate on the established penalties | \$150,000. |

Assumptions:

1. An effective date for the above sections of July 2, 1989.
2. Detected fraudulent overpayments will remain at about \$500,000/year through 1994.
3. The fraud penalty must be collected in cash, therefore we have assumed a 60% collection rate on established penalties. A benefit offset cannot be used because of conflict with the federal law.

H B

1 5 5

```

*****
*
* DELIVER TO: LIOCANC
*
* ORIGINAL
* SENT: 03/24/89 TIME: 11:08
* FROM: LIOCMAB
* SUBJECT: FS(H)L&C;HB155;3-24;ANCH
* PRINT DATE: 03/24/89 TIME: 11:08
*
*****

```

ANCHORAGE FINAL STATS

```

DATE: _____ MARCH 24, 1989 _____
SITE: _____ ANCHORAGE _____
SPONSOR: _____ HOUSE LABOR AND COMMERCE _____
SUBJECT: _____ HB 155, MATERNITY, ADOPTION, FAMILY LEAVE _____
MODERATOR: _____ MARYANN _____
TELECONFERENCE NO. _____ 89-03-085 _____

```

TESTIFIED:

NAME\REPRESENTING:	ADDRESS	PHONE
RUTH LISTER, A W C,	3601 C ST. ANCH. 99503	561-4227
JOANE WELSH,	1017 F ST. ANCH. 99501	276-8741
PAULA HALEY, ASCHR,	800 A ST. #202 ANCH. 99501	276-7474

OBSERVED:

NAME\REPRESENTING	ADDRESS	PHONE #
DERRELL SMITH,	12100 SKYWAY DR. ANCH 99515	349-9196
RYAN SMITH	12100 SKYWAY DR. ANCH 99515	349-9196
NANCY GORDON,	1031 W. 4TH AVE. ANCH 99501	276-3550
TOM STUART, DOL,	3301 EAGLE ST. ANCH 99501	264-2452
RANDY CARR, DOL,	3301 EAGLE ST. ANCH 99501	264-2452

```

TESTIFIED: ___3___
OBSERVED: ___5___
TOTAL: ___8___

```

```

START TIME: 10:00 AM
END TIME: 11:00 AM

```

\*\*\*\*\*  
 \* DELIVER TO: LIQCANC \*  
 \* ORIGINAL \*  
 \* SENT: 03/24/89 TIME: 11:08 \*  
 \* FROM: LIQCMAB \*  
 \* SUBJECT: FS(H)LAC;HB155;3-24;ANCH \*  
 \* PRINT DATE: 03/24/89 TIME: 11:08 \*  
 \*\*\*\*\*

ANCHORAGE FINAL STATS

DATE: \_\_\_\_\_ MARCH 24, 1989 \_\_\_\_\_  
 SITE: \_\_\_\_\_ ANCHORAGE \_\_\_\_\_  
 SPONSOR: \_\_\_\_\_ HOUSE LABOR AND COMMERCE \_\_\_\_\_  
 SUBJECT: \_\_\_\_\_ HB 155, MATERNITY, ADOPTION, FAMILY LEAVE \_\_\_\_\_  
 MODERATOR: \_\_\_\_\_ MARYANN \_\_\_\_\_  
 TELECONFERENCE NO. \_\_\_\_\_ 89-05-095 \_\_\_\_\_

TESTIFIED:

NAME\REPRESENTING:	ADDRESS	PHONE
RUTH LISTER, A W C,	3601 C ST. ANCH. 99503	561-4227
JOANE WELSH,	1017 P ST. ANCH. 99501	276-8741
PAULA HALEY, ASCHR,	800 A ST. #202 ANCH. 99501	276-7474

OBSERVED:

NAME\REPRESENTING	ADDRESS	PHONE #
DERRELL SMITH,	12100 SKYWAY DR. ANCH 99515	349-9196
RYAN SMITH	12100 SKYWAY DR. ANCH 99515	349-9196
NANCY GORDON,	1031 W. 4TH AVE. ANCH 99501	276-3550
TOM STUART, DOL,	3301 EAGLE ST. ANCH 99501	264-2452
RANDY CARR, DOL,	3301 EAGLE ST. ANCH 99501	264-2452

TESTIFIED: 3  
 OBSERVED: 5 START TIME: 10:00 AM  
 TOTAL: 8 END TIME: 11:00 AM

HB 155

Dealing With: EMPLOYEE HEALTH INSURANCE COVERAGE, EMPLOYMENT RIGHTS Based  
ON PREGNANCY.

Sponsors: BROWN, ULMER, GRUBBERG,  
ELLIS, SPORNHOLZ.

Cost: ~~CEC~~  
ADMIN

Supporters/ Opponents: NATIONAL FEDERATION INDEPENDENT BUSINESS - OPPOSED.

AK. WOMEN'S COMMISSION - SUPPORTS

STATE MEDICAL ASSOC. - SUPPORTS

DADS AGAINST DISCRIMINATION PAC - SUPPORTS

AK. CIVIL LIBERTIES UNION - SUPPORTS

Description: APPLIES TO BOTH PUBLIC and PRIVATE.

- Requires employers to grant leave, Disability and sick pay ~~to~~  
For pregnancy, childbirth, and related medical conditions.
- Requires employers to maintain coverage under any group  
health plan at the same level that would have been  
provided were the employee still working.  
Employee must still pay all costs for maintaining health  
insurance during leave.

CS



An Affiliate of the American Civil Liberties Union

P.O. Box 201844  
Anchorage, AK 99520-1844

Office Location:  
310 K Street  
Anchorage, Alaska  
(907) 278-2258

---

Jamie Bollenbach  
Executive Director

Date: March 7, 1989  
To: House Labor and Commerce Committee  
From: Jamie Bollenbach, Exec. Dir. AKCLU  
Re: Comments on HB 155

---

The Alaska Civil Liberties Union supports family leave legislation which protects the rights of employees to raise a family and continue working without fear of adverse consequences. We believe that this type of legislation extends fair treatment for all employees, and promotes an end to employment discrimination against parents of all kinds, male or female, present or future, single or married. The American Civil Liberties Union lobbied hard on behalf of similar legislation at the federal level.

People employed by companies without leave policies risk losing their jobs if they must be absent because of pregnancy or serious medical conditions in the family. Some states tried to soften the impact of inadequate leave policies by mandating a special minimum leave for pregnant workers. This hinders equality between men and women in the workplace. Special treatment for pregnant women legitimizes sex discrimination and simply ignores the role of men as parents.

The ACLU would oppose legislation which singled out pregnant women for disability leave without granting family leave to other employees because such legislation would discriminate on the basis of gender. We support legislation that preserves the principle of equal treatment for men and women in the workplace.

HB 155 recognizes that pregnancy does not fundamentally differ from

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

H B

1 5 5

```

*****
*
* DELIVER TO: LIOCANC
*
* ORIGINAL
* SENT: 03/24/89 TIME: 11:08
* FROM: LIOCMAB
* SUBJECT: FS(H)L&C;HB155;3-24,ANCH
* PRINT DATE: 03/24/89 TIME: 11:08
*
*****

```

ANCHORAGE FINAL STATS

```

DATE: _____ MARCH 24, 1989 _____
SITE: _____ ANCHORAGE _____
SPONSOR: _____ HOUSE LABOR AND COMMERCE _____
SUBJECT: _____ HB 155, MATERNITY, ADOPTION, FAMILY LEAVE _____
MODERATOR: _____ MARYANN _____
TELECONFERENCE NO. _____ 89-03-085 _____

```

\*\*\*\*\*

TESTIFIED:

NAME\REPRESENTING:	ADDRESS	PHONE
RUTH LISTER, A W C,	3601 C ST. ANCH. 99503	561-4227
JOANE WELSH,	1017 P ST. ANCH. 99501	276-8741
PAULA HALEY, ASCHR,	800 A ST. #202 ANCH. 99501	276-7474

OBSERVED:

NAME\REPRESENTING	ADDRESS	PHONE #
DERRELL SMITH,	12100 SKYWAY DR. ANCH 99515	349-9196
RYAN SMITH	12100 SKYWAY DR. ANCH 99515	349-9196
NANCY GORDON,	1031 W. 4TH AVE. ANCH 99501	276-3550
TOM STUART, DOL,	3301 EAGLE ST. ANCH 99501	264-2452
RANDY CARR, DOL,	3301 EAGLE ST. ANCH 99501	264-2452

\*\*\*\*\*

```

TESTIFIED: 3
OBSERVER: 5 START TIME: 10:00 AM
TOTAL: 8 END TIME: 11:00 AM

```

\*\*\*\*\*

\* DELIVER TO: LIUCANC \*  
 \* ORIGINAL \*  
 \* SENT: 03/24/89 TIME: 11:08 \*  
 \* FROM: LIUCMAB \*  
 \* SUBJECT: PS(H)OLAC; HB155, 3-24; ANCH \*  
 \* PRINT DATE: 03/24/89 TIME: 11:08 \*  
 \*

\*\*\*\*\*

ANCHORAGE FINAL STATS

DATE: MARCH 24, 1989  
 SITE: ANCHORAGE  
 SPONSOR: HOUSE LABOR AND COMMERCE  
 SUBJECT: HB 155, MATERNITY, ADOPTION, FAMILY LEAVE  
 MODERATOR: MARYANN  
 TELECONFERENCE NO. 89-03-005

\*\*\*\*\*

TESTIFIED:

NAME REPRESENTING:	ADDRESS	PHONE
RUTH LISTER, A M C,	3601 E ST, ANCH, 99503	561-1227
JOHN WELSH,	1017 P ST, ANCH, 99501	276-8741
PAULA HALEY, NSCHR,	600 A ST, #202 ANCH, 99501	276-7474

OBSERVED:

NAME REPRESENTING	ADDRESS	PHONE #
DERRELL SMITH	12100 SKYWAY DR, ANCH 99515	349-9196
RYAN SMITH	12100 SKYWAY DR, ANCH 99515	349-9196
HANCOY GORDON,	1931 W. 4TH AVE, ANCH 99501	276-3559
TOM STUART, DOL,	3501 EAGLE ST, ANCH 99501	264-2452
KARLY CARR, DOL,	3501 EAGLE ST, ANCH 99501	264-2452

\*\*\*\*\*

TESTIFIED: 5  
 OBSERVED: 5  
 TOTAL: 10

START TIME: 10:00 AM  
 END TIME: 11:08 AM

HB 155

Dealing With: EMPLOYEE HEALTH INSURANCE COVERAGE, EMPLOYMENT RIGHTS BASED ON PREGNANCY.

Sponsors: BROWN, ULMER, GRUENBERG,  
ELLIS, SPORNHOLZ.

Cost: ~~0~~ CED  
ADMIN

Supporters; Opponents: NATIONAL FEDERATION INDEPENDENT BUSINESS - OPPOSED.

AK. WOMEN'S COMMISSION - SUPPORTS

STATE MEDICAL ASSOC. - SUPPORTS

DADS AGAINST DISCRIMINATION PAC - SUPPORTS

AK. CIVIL LIBERTIES UNION - SUPPORTS

Description: APPLIES TO BOTH PUBLIC AND PRIVATE.

- Requires employers to grant leave, Disability and Sick Pay ~~15~~ for pregnancy, childbirth, and related medical conditions.
- Requires employers to maintain coverage under any group health plan at the same level that would have been provided were the employee still working.  
Employee must still pay all costs for maintaining health insurance during leave.

CS



An Affiliate of the American Civil Liberties Union

P.O. Box 201844  
Anchorage, AK 99520-1844

Office Location:  
310 K Street  
Anchorage, Alaska  
(907) 276-2258

---

Jamie Bollenbach  
Executive Director

Date: March 7, 1989  
To: House Labor and Commerce Committee  
From: Jamie Bollenbach, Exec. Dir. AKCLU  
Re: Comments on HB 155

---

The Alaska Civil Liberties Union supports family leave legislation which protects the rights of employees to raise a family and continue working without fear of adverse consequences. We believe that this type of legislation extends fair treatment for all employees, and promotes an end to employment discrimination against parents of all kinds, male or female, present or future, single or married. The American Civil Liberties Union lobbied hard on behalf of similar legislation at the federal level.

People employed by companies without leave policies risk losing their jobs if they must be absent because of pregnancy or serious medical conditions in the family. Some states tried to soften the impact of inadequate leave policies by mandating a special minimum leave for pregnant workers. This hinders equality between men and women in the workplace. Special treatment for pregnant women legitimizes sex discrimination and simply ignores the role of men as parents.

The ACLU would oppose legislation which singled out pregnant women for disability leave without granting family leave to other employees because such legislation would discriminate on the basis of gender. We support legislation that preserves the principle of equal treatment for men and women in the workplace.

HB 155 recognizes that pregnancy does not fundamentally differ from

other critical family care responsibilities, including adoption, serious illness, and the actual care of a newborn baby. Any of these situations require parents' extra time and attention. It is the responsibility of employers not to penalize Alaskans for trying to build a healthy family.

This proposal would particularly benefit single parents who do not have a spouse or an extended family to assist them. A single parent who confronts the responsibility of a baby without job security may have no one else to rely on; childbirth can become an overwhelming burden. Adverse employment action because of pregnancy or childbirth is an injustice that no Alaskan should face.

The AkCLU fully supports the intent and the heart of the language of HB 155. An initial screening by one of our co-operating attorneys indicated that minor changes in parts of the bill may be helpful in clarifying some points. (I passed some of these concerns along to Rep. Brown's office.) We would be happy to provide a more detailed evaluation.

Alaskans are increasingly concerned over employment and family issues, and working Alaskan parents deserve the protection of law. We urge the Legislature to adopt family leave legislation.

Prepared by:  
Rep. Kay Brown  
April 4, 1989

By: Brown, Ulmer, Gruenberg,  
Ellis, and Spohnholz

**PROPOSED CS HB 155 ( )**  
**Work Draft 6-0525E**  
**Dated 4-3-89**

**The proposed Committee Substitute would:**

- **change the title to reflect deletion of language that stated that the employer is not required to provide health insurance coverage for pregnancy, childbirth, or a related medical condition (Page 2, Section 3(a)).**

- \* Human Rights Commission request because of concern that language violated the federal Pregnancy Discrimination Act of 1978, which requires health care for pregnancy.

- **designate the Department of Labor, Title 23, as the enforcement agency, and provide for investigation and conciliation of complaints (Page 5, Section 23.10.540 (a) & (b)).**

- \* Sponsor amendment in response to perceived concensus in Committee.

- **apply to employers with at least 21 employees (amended language covering employers with 15 or more employees) (Page 4, Section 3(f); Page 6, lines 7-10).**

- \* Sponsor amendment; the HRA Report indicates that the six states with mandated parental/family/medical leave cover employers with 21 or more employees.

- **make the leave for childbirth or adoption consecutive, to be taken in a single block of time up to 18 weeks, and expiring at the end of the 12-month period beginning after the date of the birth or adoption (Page 3, Section 3(b)(1); Page 7, Section 6(a)(1)).**

- \* Department of Administration request that would assist the employer in planning for the anticipated leave, as well as allow time for emotional bonding with the child by each parent.

- **specify that the temporary transfer of a pregnant employee must be to a funded, unfilled position that is part of the same administrative division in which the employee is presently working (Page 5, lines 1-3).**

- \* Department of Administration request that ensures transfer to a position in the same location.

- **delete "requests" transfer....; insert "receives" transfer... (Page 5, line 8).**

- \* drafter's amendment.

- **add a section of definitions, with "employer" and "small business facility" reflecting coverage of 21 or more employees (Page 6, Section 23.10.550, (2), (6), and (7)).**

- **expand language to cover anyone who bargains under AS 23.40 in provision that collective bargaining agreements must provide comparable benefits to those in AS 23.10.500 - .550 in the bill (Page 7, Section 4 (g)).**

- \* technical change by drafter, removing reference to state employees.

- **add new language "using family leave under this paragraph" (Page 8, lines 3-4).**

- \* clarifying language by drafter.

Prepared by:  
Rep. Kay Brown  
March 7, 1989

**HB 155. "An Act relating to employee health insurance coverage, employment rights based on pregnancy, childbirth, and related conditions, and family leave."**

**SECTION 1:**

**(a) FINDINGS**

- (1) single- and two-parent households in which the parent(s) work outside the home are increasing significantly;
- (2) it is important to child development and to the family unit that parents be able to take part in early childrearing and the care of a sick child;
- (3) the lack of employment opportunities to accomodate working parents can force individuals to choose between job security and parenting; and
- (4) it is important for the family unit that a person be able to care for a parent or spouse who has a serious health condition.

**(b) PURPOSES**

- (1) to balance the demands of the workplace with the needs of families, and to promote stability and economic security in families;
- (2) to entitle employees to take reasonable leave for the birth or adoption of a child and for the care of a child, spouse or parent who is ill; and
- (3) to accomodate the legitimate interests of employers.

**SECTION 2: amends AS 14.20.590 by adding a new subsection**

- Comparable Benefits**
- (b)** notwithstanding existing provisions regarding negotiation and mediation in AS 14.20.550 -14.20.610, a negotiations agreement concerning benefits and leave is void unless it provides benefits comparable to those in AS 18.80.225.

**SECTION 3: amends AS 18.80 by adding a new section 18.80.225:**

- Temporary Disability Benefits**
- (a)** requires employer to grant an employee whose health is affected by pregnancy, childbirth, or a related medical condition the same employment benefits and privileges granted to other temporarily disabled employees, including allowing the employee to take disability, sick, or other accrued leave if it is available to other temporarily disabled employees.

However, except as provided in (e) of this section, an employer is not required to provide health insurance coverage for the medical costs of pregnancy, childbirth, or a related medical condition.

Health insurance coverage of the medical costs for one of the conditions- pregnancy, childbirth, or a related condition- is not required for the other two conditions.

**Eligibility**

- (b) an employee is eligible for family leave if the employee has worked for the employer at least 35 hours a week for at least six consecutive months, or at least 17-1/2 hours a week for at least twelve consecutive months immediately preceding the leave.

An eligible employee can take family leave for a total of 18 workweeks during any 24-month period.

The leave may be unpaid, but the employee may choose to substitute, or the employer may require the employee to substitute, accrued paid vacation leave, sick leave, personal leave, or other paid leave.

If the employee is entitled to a longer period of leave under (a) of this section, then the longer period applies.

An eligible employee is entitled to take family leave

(1) because of pregnancy, the birth of a child of the employee, or the placement of a child, other than a stepchild, with the employee for adoption, with the entitlement to leave expiring at the end of the 12-month period beginning after the date of the birth or placement; and

(2) in order to care for the employee's child, spouse, or parent who has a serious health condition; "child" herein defined as including the employee's biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis.

**Prior Notice Requirement**

- (c) requires employee to give employer prior notice of an expected need for leave in a reasonable and practical manner if the necessity for leave is foreseeable based on an expected birth or adoption, or on planned medical treatment or supervision.

If the need for leave is foreseeable based on planned medical treatment or supervision, the employee shall also make a reasonable effort to schedule the treatment or supervision at a

time that won't unduly disrupt the operations of the employer, subject to the approval of the health care provider of the employee's child, spouse or parent.

***No  
Simultaneous  
Leave***

(d) notwithstanding (b) of this section, two employees working for same employer may not take family leave to care for a parent or child.

***Health  
Coverage  
Maintained***

(e) during the time the employee is on leave, the employer will maintain coverage under any group health plan at the level and under the conditions that coverage would have been provided if the employee had been employed continuously from the date the leave began until the employee returns under (f) of this section.

However, the employer may require that the employee pay all of the costs for maintaining health insurance coverage during the period of unpaid leave.

***Reinstatement  
After Leave***

(f) unless the employer's circumstances have changed to make it impossible or unreasonable, when an employee returns from leave under (a) or (b) of this section, the employer will restore the employee

(1) to the position held by the employee when the leave began; or

(2) to a substantially similar position with substantially similar benefits, pay and other terms and conditions of employment.

***Transfer  
Pregnant  
Employee***

(g) an employer may not refuse to temporarily transfer a pregnant employee to an existing, unfilled position that is less strenuous or less hazardous if

- the employee requests the transfer;
- the transfer is recommended by a licensed health care provider;
- the employee is qualified and immediately able to perform the job; and
- the transfer will not subject the employer to legal liability.

the employer shall compensate an employee who requests a transfer under this subsection at a rate at least equal to the lesser of the rate, as adjusted by changes to compensation that apply generally to the workforce, at which

(1) the employee was compensated immediately before requesting the transfer; or

(2) the position into which the employee transfers is compensated.

***Other  
Discrim-  
ination  
Laws not  
Affected***

(h) this section does not affect any other provision of law relating to sex discrimination, pregnancy, or parenthood.

***Applicability  
of Section***

(i) this section applies only to employers who employed at least 15 employees for each working day during 20 consecutive work-weeks in either the current or preceding calendar year.

however, this section does not apply to a small business facility if the total number of employees employed within 50 road miles of the facility, including those employed at the facility during the 20 workweeks, was fewer than 15.

***Refusal  
to grant  
Family Leave***

(j) an employer may refuse to grant an employee family leave under (b) of this section if the employer establishes that

(1) the employee's salary is in the top 10% of all employees in facilities of the employer covered by this section; and

(2) the employee has skills, knowledge, or experience that cannot be satisfactorily provided by other employees during the period of the proposed leave and that are necessary to the employer during that time to meet a business necessity.

***Violation of  
Section is  
Unlawful  
Discrimination***

(k) a violation of this section constitutes unlawful discrimination under this chapter.

***Comparable  
Benefits***

(l) the provisions of this chapter are subject to collective bargaining. However, a collective bargaining contract is void unless it contains terms giving employees benefits comparable to those provided by this section.

***Definitions***

(m)

(1) "child" means an individual who is under 18; or 18 or older and incapable of self-care because of mental or physical disability;

(2) "health care provider" has the meaning given in AS 18.-23.070;

(3) "parent" means a biological or adoptive parent, a parent-in-law, or a stepparent;

(4) "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves  
(A) inpatient care in a hospital, hospice, or residential health care facility; or  
(B) continuing treatment or continuing supervision by a health care provider;

(5) "small business facility" means a facility of an employer at which fewer than 15 employees were

employed for each working day during 20 consecutive workweeks in the current or preceding calendar year.

**SECTION 4: amends AS 23.40.200 by adding a new subsection**

**(g)**

***Comparable Benefits***

notwithstanding any provision of AS 23.40.070- .260 to the contrary, an agreement between the state and an employee bargaining organization representing state employees that conflicts with AS 18.80.225, concerning benefits and leave for pregnancy, childbirth, related medical conditions, and family leave, is void unless the agreement provides benefits comparable to those in AS 18.80.225.

**SECTION 5: amends AS 39.20.225(b)(4) to read:**

***Personal Leave for Pregnancy***

- (4)** Pregnancy and childbirth is a medical reason for a female officer or employee to take personal leave. (deletes language limiting leave to a maximum of nine weeks immediately preceding and following childbirth.)

**SECTION 6: amends AS 39.20 by adding a new section, 39.20.305, FAMILY LEAVE**

***Personal Leave***

- (a)** an officer or employee who is otherwise qualified for a leave of absence may take family leave for a total of 18 workweeks during any 24-month period, using accrued personal leave. After exhausting accrued personal leave, the officer or employee may take unpaid leave for the balance of the 18-week period.

If the employee is entitled to a longer period of time under AS 18.80.225(a), then the longer period applies.

***Eligibility***

An eligible employee is entitled to take family leave

- (1)** because of pregnancy, the birth of a child of the employee, or the placement of a child, other than the employee's stepchild, with the employee for adoption. The entitlement to leave expires at the end of the 12-month period beginning after the date of the birth or placement; and
- (2)** in order to care for the employee's child, spouse, or parent who has a serious health condition. "Child" defined in this paragraph to include the employee's biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis.

**Prior Notice Requirement**

- (b) if the necessity for family leave under (a) of this section is foreseeable based on an expected birth or adoption or on planned medical treatment or supervision, the employee must provide prior notice of the expected need for leave in a reasonable and practicable manner.

If the necessity for leave under this section is foreseeable based on planned medical treatment or supervision, the employee also must make a reasonable effort to schedule the treatment or supervision so it won't unduly disrupt the operations of the state agency or department, subject to the approval of the health care provider of the employee's child, spouse, or parent.

**No Simultaneous Leave**

- (c) notwithstanding (a) of this section, if a parent or child of two employees employed by the state has a serious health condition, the state is not required to grant family leave to both employees simultaneously.

**Refusal to Grant Leave**

- (d) a state department or agency may refuse to grant an employee family leave under (a) of this section if it establishes that

- (1) the salary received by the employee is in the top 10% of employees within that department or agency; and
- (2) the employee has skills, knowledge, or experience that cannot be satisfactorily provided by other employees during the proposed leave period and that are necessary to the department or agency during that time to meet a business necessity.

**Definitions**

- (e) definitions in this section for "child," "health care provider," "parent," and "serious health condition," have the meanings given in AS 18.80.225.

**SECTION 7:**

**No Impairment of Existing Contracts**

A collective bargaining agreement in effect on the effective date of this Act that contains terms that do not comply with the requirements for family leave in AS 18.80.225 remains valid until the agreement expires. However, the contract may not be extended by agreement or renewed unless it complies with 18.80.225 and 14.20.590(b) (Teachers' Grievance Procedures) or 23.40.200(g) (Labor-Arbitrations), if applicable.

Prepared by:  
Rep. Kay Brown  
March 30, 1989

By: Brown, Ulmer, Gruenberg,  
Ellis, and Spohnholz

### PROPOSED CS HB 155 ( )

The proposed Committee Substitute would:

- **amend the conditions of leave for childbirth or adoption, in effect making the leave consecutive, to be taken in a single block of time up to 18 weeks, and to expire at the end of the 12-month period beginning after the date of the birth or adoption (Page 3(b)(1), lines 2-4 ; Page 7(a)(1), lines 14-16);**
  - \* Department of Administration request
  - \* would help employer plan for the anticipated leave
  - \* would allow time for emotional bonding with the child by each parent
  
- **amend the language relating to the temporary transfer of a pregnant employee to include the provision that the transfer must be to a funded unfilled position that is part of the same administrative division in which the employee is presently working (Page 4(g), lines 12-14);**
  - \* Department of Administration request
  - \* takes care of vacancy factor needed for budgetary reasons
  - \* ensures transfer to a position in the same location
  
- **amend the language: delete "requests"; insert "receives" (Page 4, lines 18-19);**
  - \* drafter's amendment
  
- **delete language which states that employer is not required to provide health insurance coverage for pregnancy, childbirth, or a related medical condition (Page 2, Section 3(a)).**
  - \* Human Rights Commission request
  - \* concern that language violated the federal Pregnancy Discrimination Act of 1978, which requires health care for pregnancy.

• **amend to provide civil relief for a violation constituting unlawful discrimination** (Page 5, Section 3(k), lines 15-17)

\* Department of Administration request



STATE OF ALASKA

OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION

3601 C STREET - SUITE 742

ANCHORAGE, ALASKA 99503

March 17, 1989

POSITION PAPER ON HB 155

The Alaska Women's Commission strongly supports HB 155, legislation which guarantees job protected unpaid leave for parents after the birth or adoption of a child and to look after a sick child or parent. Businesses with fewer than 15 employees, 84% of the total in Alaska, are excluded in this legislation.

Basic to this bill are the need for parental bonding with infants and the need for parental nurturing of infants and sick children. In addition, many women take time off work to look after elderly parents. These are very important factors in the well-being of children and families. A study by the National Association of Area Agencies on Aging finds that 77% of employed women experienced work and caregiving conflicts that resulted both in costs to themselves and in productivity losses to employers.

It is necessary to address in a positive way the impact on our families of the increasing number of women in the work force. In Alaska 65% of women over age 16 work. Between ages 20 to 34 when most women have children, 68% of women work. This figure rises to 78% for women aged 35 to 44 years. While Alaska has one of the highest birth rates in the nation, 49% higher than the national average, we also have the second highest participation rate of females in the work force. Similar to national statistics, however, women attain less seniority and earn less money than men. In order to attain equal earning power in the marketplace, women need job protected maternity leave, adequate child care, and flexible work time.

When working full-time, married women earn on average half of what married men earn. It is not surprising, therefore, that women disrupt their career or risk loss of their job to look after children and elderly parents. This creates a vicious circle that prevents women from attaining promotions and seniority. In addition, with the high rate of divorce in Alaska and increasing number of female headed families, the earning power of women has a wider impact on families than before. Job protected leave, as defined in this bill, is one part of the solution.

Several national studies have looked at what private businesses now provide. These studies indicate that at least half of employers provide maternity leave. Maternity leave is least frequently provided in the retail trade and service industries which are areas

of high female employment. When leave was available for two parent families, 37% of women returned to work in less than 8 weeks and 32% in 9 to 18 weeks. Men rarely took paternity leave. Thus, the impact of mandated leave is diminished by economic reality for most families since it is not fully used.

Companies with parental leave policies report savings in training and hiring costs, increased employee loyalty and productivity. Conversely, the productivity of working parents who have infants in day care tends to be lower and the cost to government for day care assistance eligible parents is very high.

The National Association of Working Women recently made a multivariate analysis of business employment in seven states with parental leave compared with seven states considered to be pro-business because of anti-regulatory policies. The study addressed the question: Have small businesses grown more slowly or declined in those states which have mandated a family leave policy. The results of this study indicate that family leave policies have had no negative effect on job growth in the small business sector. In fact, family leave policies are associated with high job growth in the small business sector. Businesses with less than fifty workers were estimated to hire approximately 21% more employees if these enterprises were located in a parental leave state. A second finding of this study is the positive association between a high rate of women's labor force participation and employment growth in all size firms.

Family leave with job protection would positively impact women's earning ability and job security, decrease reliance on welfare and other forms of government support, and promote healthy families. The Alaska Women's Commission strongly urges your support of this bill.



---

## Older Alaskans Commission

---

Box C  
Juneau, Alaska 99811-0209  
907/465-3250

### POSITION PAPER - HB 155

#### LEAVE FOR FAMILY CAREGIVERS

The Older Alaskans Commission supports this bill in concept. The OAC views it as pro-family and pro-employee legislation designed to encourage "eldercare" by family members. In light of the high private and public cost of alternatives to family caregiving for the elderly, namely, institutionalization, this is also a cost-effective proposal.

Work place policies which accommodate caregivers' need for leave or flex-time work make good management and business sense. In the case of caregivers to the elderly, the employee caregivers are usually over the age of forty, and thus are usually experienced employees with a high replacement value. They are often middle or top level managers.

Retaining experienced employees and keeping them at their most productive and healthy functioning level will benefit employers. Numerous research studies have shown that full-time employee caregivers of the elderly provide 12 to 35 hours a week of care giving services. This results in considerable stress to the employee, which in turn shows up as decreased production at work, unscheduled absences, and increased costs to the employee health benefit program. (See Attachment A)

Under HB 155, most major employers in the state would be required to simultaneously offer these new caregiver leave benefits. This is an equitable solution to this social problem, as all competitors in any field would be operating under the same public policy.

Proposed federal legislation similar to HB 155 was studied by the Government Accounting Office which found that the cost to the national business community of providing family leave is only one-seventh (1/7) the cost to the taxpayers of unemployment and welfare payments resulting from lack of caregiving leave. (See Attachment B.)

HB 155 will benefit three groups of Alaskans:

"...\* the employees whose health and well-being are preserved;

\* the employer who profits from their continuing productivity and their lower utilization of health care and other benefits; and

\* the dependents for whom the employee's support is essential."

(Employer Support for Employee Caregivers, The New York Business Group on Health, Inc., p. 2, Attachment C)

The Older Alaskans Commission understands that there may still be details to be worked out in this legislative proposal, and the OAC would be supportive of compromises that meet the needs of both employers and employees. (Indeed, the OAC Legislative Subcommittee was split on the issue of whether to support this bill, with a majority of the committee strongly in favor, and the third committee member preferring to hold back on support of this bill until the issues have been more fully developed.)

Although HB 155 may benefit from some refinements, the concept of the workplace making an accommodation to the leave needs of family caregivers is supported by the OAC.

Approved by:

Reviewed by:

*for Connie J. Lipe*  
Mellie Terwilliger, Chair  
Older Alaskans Commission

*[Signature]*  
John M. Andrews, Commissioner  
Department of Administration

Date: April 3, 1989

Date: 4/3/89

# The Corporate Response to the

by Michael A. Creedon, D.S.W.

**O**f the many changes in the family which could affect family care of the elderly, perhaps the most obvious is the rapid increase in the number of dual-career couples. Today, in some 60 percent of families, both spouses work. A recent Bureau of National Affairs report on *Employers and Eldercare* (1988) suggests that 75 percent of women between 45 and 60 will be in the workforce by the year 2000.<sup>1</sup>

Until recently, work and family conferences have focused almost exclusively on child care, and the corporate response to the child care concerns of employees has steadily increased. Help from employers to ease the situation of the employee caring for an elderly person, however, has been much slower to develop. This has been the case even though researchers have been affirming for the past 20 years that the family is the primary support system for the elderly.

## Research Findings

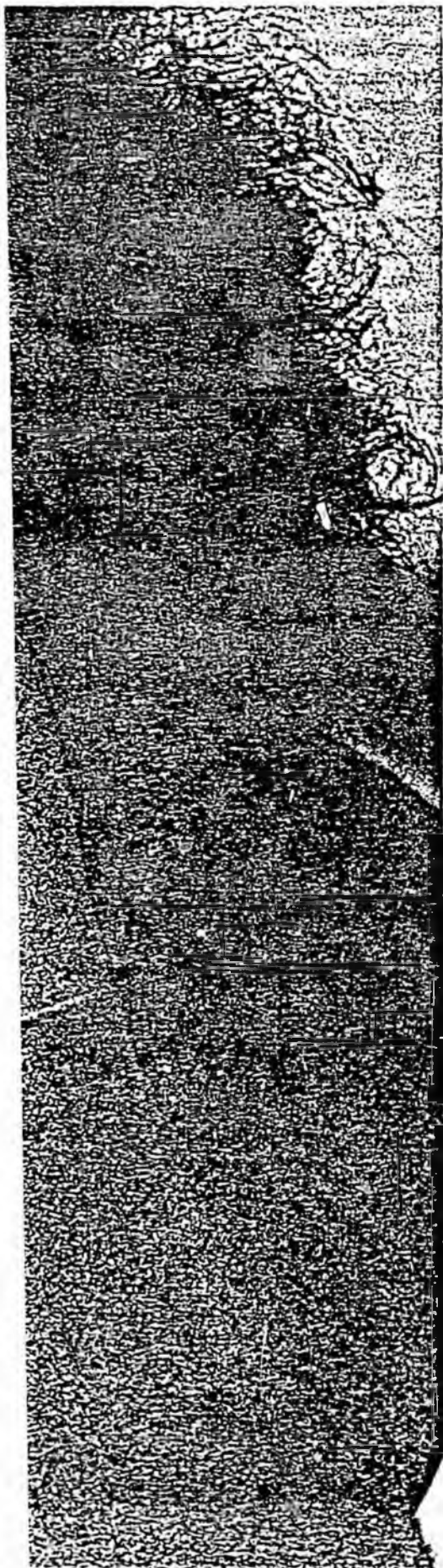
Perhaps the central finding in recent series of research projects on employees and eldercare was the large proportion of employees with eldercare responsibilities. The Traveler's Employee Caregiver Survey in 1985 reported that among employees over 30, some 20 percent were caring for an older relative or friend.<sup>2</sup> Four additional work force studies undertaken recently by corporations and univer-

---

*Michael Creedon is Director of Corporate Programs at the National Council on the Aging in Washington, D.C. and Clinical Professor of Gerontology at the University of Bridgeport in Connecticut.*



# Working Caregiver



---

*One study suggests working caregivers use health services more often and are more subject to anxiety and depression.*

---

sities have shown that the proportion of employees caring for an elderly relative ranged from 20 to 30 percent.<sup>3,4,5</sup>

The second striking research finding is the amount of service provided to the elderly by working caregivers. Enright and Friss (1987) reported an average of 35 hours per week of care provided to brain-damaged adults.<sup>6</sup> Travelers (1985) reported 12 hours per week of care of elderly relatives (16 hours for females). The National Association of Area Agencies on Aging (NAAAA) reported (1987) 15.9 hours per week of care.<sup>7</sup>

What kind of services were the caregivers providing? In the NAAAA study, female caregivers reported that they were providing emotional support, daily or weekly visits, shopping, cooking, banking, personal care and transportation. The University of Bridgeport Corporate Eldercare project cited transportation (73.6%), making appointments (64%), providing meals (66.4%), visiting (54.4%), home maintenance (54.4%), personal care (29.6%), filling out forms (62.4%), searching for a new residence (9.6%) and financial assistance (63.2%).<sup>8</sup> Regardless of the mode of assistance—personal care, paid care or management of care—employee caregivers invest heavily in the care of older relatives.

From a corporate perspective, the most important research finding is the impact of caregiving on work performance. Employee caregivers make great efforts to carry out both responsibilities faithfully (Brody, et al, 1987).<sup>9</sup> An AARP survey of employees found that only 5 percent of caregivers said that caregiving interfered regularly with job performance.<sup>10</sup> However, one survey reported that 75 percent of employers noted lateness and

unscheduled days off among the effects of caregiving, while 64 percent noted excessive use of the telephone.<sup>11</sup> In another employer survey, 57 percent of respondents received requests from caregivers for time off. Days lost from work are an important cost to the employer.

Many caregivers are forced to choose between employment and caregiving. Brody suggests that 12 percent of caregivers leave the workforce early. Enright and Friss (1987) report that many caregivers reduce their work hours. Finally the University of Bridgeport project suggests that employee caregivers use health services more often and are far more subject to anxiety, depression, headaches and weight gain or loss.<sup>12</sup>

The research reviewed here documents the large proportion of today's workforce affected by eldercare responsibilities. It also suggests that there are corporate costs associated with caregiving, ranging from lost days to lowered productivity to higher health costs to lost employees. The American workplace will be increasingly affected by eldercare as we move into the 21st century, and employers will find that they will need to address the special needs of working caregivers.

## Barriers to Workplace Support

The eldercare obligations and stresses on the two-career family have been slow to gain recognition because of several factors. First may be the lack of executive awareness of this problem. Just two years ago, the vice president for human resources of one major defense contractor stated to this author that he had never heard of the problem of eldercare in his workforce, despite an average age of more than 40 among the employees and a female

proportion of more than one-third.

Such an executive response may very well be attributable to the fact that many employees may not want managers to be aware of their eldercare concerns, and may not see their employers as a possible source of support. In some cases, working caregivers may not even be aware that they can get help from others. Clearly, awareness of eldercare as a fact of life for employee caregivers is the first necessity for corporate response.

Employer resistance to the development of new benefits is another barrier to be overcome. Retirement Advisers, Inc., reported in 1987 that a typical executive response to inquiries regarding eldercare was that stirring up new demands was bad. "Leave well enough alone," was the attitude.<sup>13</sup> In the highly competitive business world, providing a new benefit needs rigorous justification for the corporate bottom line.

In short, low awareness of employees' eldercare burdens, lack of employee demand, tight budgets, and executive resistance to new benefits all contribute to a lack of support in the workplace.

### Current Initiatives

Nonetheless, a variety of eldercare efforts are underway in major U.S. corporations. For instance, I.B.M. implemented in January, 1988 a nationwide telephone assessment and referral service for

employee caregivers (see article on p.26 in this issue). In 1986, Pepsico, Inc. provided employees with "Eldercare", a resource guide which discusses normal aging, problems of aging and resources for helping the elder and the caregiver.<sup>14</sup> Champion International provided a booklet on caregiver resources to their employees and implemented a 6-month leave of absence policy for various family problems, including eldercare emergencies.<sup>15</sup>

Remington Products of Bridgeport, Conn. in November 1987 introduced an experimental program in which the company and the employee share the costs of respite care. A full-time caregiver can obtain respite care on weekends or evenings for a minimum of four hours through the Visiting Nurse Association, with care provided by a home health aide or a senior companion. Other corporate programs include a self-directed support group for caregivers at the Travelers Companies in Hartford, Conn. and a Counseling Service for caregivers offered by Family Services of Kansas City for Hallmark Cards employees.

Perhaps, the most frequent response, and the most necessary from a caregiver perspective, has been liberal leave policies and flexible work options. A recent survey of employers found that 57 percent received requests from working caregivers for time off, 39 percent for leaves of absence and 26 percent for work schedule

changes.<sup>16</sup> A large number of of the employers stated that their companies made such options available to their workforce.

This review of support programs would be incomplete without reference to the Dependent Care Assistance plans offered by many companies. This benefit option allows employee caregivers to set aside up to \$5,000 of salary pre-tax for a targeted caregiving purpose. Presently, most users are providing support for childcare partly because current federal regulations for the plans were developed with a childcare model in mind. The requirements state that the caregiver must provide 51 percent of the cost of care and that the dependent must live with the caregiver at least 2 days a week and be declared a "dependent" on the employee's tax return.

The employer who offers a Dependent Care Assistance plan must also inform the caregiver of tax credit options (which may be more relevant to the needs of the lower-level employee). Linda McFarland of Hewitt Associates, an expert on benefit options, estimates that only four percent of employees at any given time are using Dependent Care Assistance Plans.<sup>17</sup> However, these plans offer significant potential support for caregivers.

### Arranging Family Counseling

Many corporations are examining their

1. Crim, Sarah. *Employers and Eldercare*. Washington DC, Bureau of National Affairs, 1988.
2. The Travelers Employee Caregiver Survey. Hartford, Ct.: The Travelers Companies, 1985.
3. Wagner, Donna and Creedon, Michael. "Employed Caregivers" (in press) Bridgeport, Ct.: University of Bridgeport, 1988.
4. Kola, Lenore A. and Dunkle, Ruth. "Caregivers of the Elderly in the Workplace." Unpublished Monograph, Cleveland, Ohio. Case Western Reserve University, 1987.
5. Neal, Margaret. Portland State University. Personal Communication, February 26, 1988.
6. Enright, Robert B. and Friss, Lynn R. "Employed Caregivers of Brain-Damaged Adults: An Assessment of the Dual Role."

San Francisco, CA : The Family Survival Project, 1987.

7. The National Association of Area Agencies on Aging. *Eldercare Employees Survey*. Washington, DC, 1987.
8. Wagner, D.L. "Corporate Eldercare Project Findings." *Issues for an Aging America: Employees and Eldercare*. Edited by Michael A. Creedon, Washington DC.: The National Council on the Aging, Inc., 1987.
9. Brody, Elaine; Klevan, M.H. et al. Work Status and "Parent Care: A Comparison of Four Groups of Women." *The Gerontologist*, Vol. 27(2), 1987. p. 201-08.
10. American Association of Retired Persons. "Caregivers in the Workplace Survey," Washington, DC, 1986.
11. Lucas, Theodore et al. *Employer Support for Employee Caregivers*, New York: New

York Business Group on Health, 1986.

12. Wagner, Donna. "Corporate Eldercare Project Findings." Ibid.
13. Retirement Advisors Inc. "Employer Survey on Eldercare," New York: RII, 1987.
14. Creedon, Michael A. and Wagner, Donna L. *Eldercare*. Purchase, N.Y. : Pepsico, Inc. 1986.
15. Mullady, Sarah. *Caring for the Elderly*, Stamford, Ct.: Champion International, 1987.
16. National Association of Area Agencies on Aging. Ibid.
17. McFarland, Linda. "Financial Support for Employee Caregivers." Proceedings of the National Conference on Issues for an Aging America: Employees and Eldercare. New York: The Conference Board (in press).

options for responding to the eldercare burdens of employees, which may increasingly occur simultaneously with child care obligations. Because of postponement of parenthood, the population cohort now entering their 40's, a particularly large group, is more likely to have young children than previous groups. The members of this cohort are also established in their careers and among the most valued employees. Thus, when an employee is likely to be achieving senior employee or management status, he or she is also likely to experience significant demands from children and/or older adult relatives.

Employee Assistance Programs (EAP's), which offer counseling and other services, are one avenue for providing valuable advice and help to caregivers. While these programs have gradually added child care concerns to their early focus on drug abuse and alcoholism, it is obvious they also need to address the issue of eldercare. When developing EAP contracts with outside providers, human resource executives should include both childcare and eldercare expertise in the contract specifications. If the EAP is developed internally, in-house expertise on a broad range of caregiving issues would be required.

A family session with a counselor, arranged through EAP's, could be very useful to caregivers. Because dependency of an older relative is often of sudden onset, the family response is frequently a "panic" reaction, with little formal consideration of the roles each sibling can play in caregiving. We know that, in practice, care is given by the spouse or a female child, usually the daughter who lives nearest. Professionals frequently note that the "primary" caregiver makes almost all the adaptations while others do very little.

A formal consultation with a counselor could do much to insure broader family involvement—spouse, all adult children, nephews, nieces, etc. A family consultation should be available as part of the three visits with a counselor or psychiatrist that EAP programs usually provide. Extending counseling to other family members would add little or nothing to the cost of the counseling benefit, while maximizing the caregiving capacity of the family net-

work and hence reducing stress on the employee caregiver.

In research conducted by the University of Bridgeport, half of employee caregivers said they were the primary caregiver. Such a high proportion suggests that maximizing the role of other family members could be very cost beneficial for a corporate-based eldercare support program.

### **New Caregiver Services**

Future corporate response to employee caregivers will in part be dictated by the types of "products" and services developed by the private sector. Within the past year, Work Family Directions in Boston has developed a nationwide telephone case assessment and referral system which puts employee caregivers in touch with appropriate services and supports for elderly relatives in any part of the nation. This program was implemented by IBM in January 1988 (see article on p. 26 of this issue).

Developmental Child Care, Inc., of Westport, Conn., has produced a videotape on "How to Find Appropriate Elder-care" (with a follow-up 800 number) which has been adopted by at least 10 corporations. Eldercare Resources, Inc., also of Westport, has developed a "Pathways to Care" packet for employees which provides employee caregivers with a binder of detailed service information for any region of the country.

These are only three examples of the types of eldercare support products that are being developed. Nonprofit organizations are also involved. For example, the National Council on the Aging (NCOA) in 1987 established a family caregivers unit which provides a continuous flow of state-of-the-art information to the caregiving family for a yearly fee of \$25. NCOA also has available a briefing book for corporate executives on the eldercare issue. AARP has developed a kit of six caregiver workshops for corporate use (See page 26).

### **Ties To Public Agencies**

Corporate support for employee caregivers is clearly related to their work role—the basic rationale being that such programs help retain employees or help them to maintain a high productivity level.

Public sector support has tended to focus almost exclusively on the dependent needing care. Until recently, family care at home was a family responsibility while nursing home or hospital care was often charged to government only.

Clearly, the nation benefits when the family provides the bulk of care. If we were to rely on an institutional approach to care in the 21st century, the costs would bankrupt our society. Consequently, we can expect public policy to focus more attention on the caregiver in the future. An example of this would be current legislative initiatives providing for expanded support for adult day care through Medicare.

It is my belief that the public sector must continue to provide the bulk of formal community care services needed by the elderly—day care, respite care, meals on wheels, home care, etc.—and these services will grow in proportion to the number of frail older adults. The employer, however, can help the employee caregiver to deal with both emotional stresses and needs for information when faced with an eldercare crisis.

Employee assistance professionals and staff in agencies serving the elderly must be in regular contact regarding services, programs, and specific caregivers and their dependent elders.

Earlier in this article it was suggested that this interface depends in part on the presence of eldercare expertise on the corporate human resources staff. Knowledge of eldercare issues in the State Agency on Aging is also important. Likewise State Offices on Aging and Area Agencies on Aging should give some priority to communication with corporate human resources staff. Thus, a budgetary allocation for written materials, brochures, etc. is essential. The Administration on Aging has provided an excellent example of such a commitment through its book "Where to Turn for Help for Older Persons" which it has made available to corporate users. (See article on p. 30 of this issue.)

In addition to corporate and public programs, it is important to realize that voluntary organizations offer a broad range of services to caregivers. The Alzheimers

*(continued on inside back cover)*

---

---

The Corporate Response - continued from page 19

and Related Disorders Association (ADRDA), for example, has chapters in every sector of the U.S.A. and offers ongoing support to those caring for brain disorder victims. Other national organizations such as The Friends and Relatives of Nursing Home Residents or The Older Women's League also provide support for a wide variety of needs.

On the State and local levels there are a vast array of similar organizations. The Family Survival Project, for example, based in San Francisco involves thousands of families who care for brain damaged adults. Such organizations as The National Council of Catholic Women offer respite care services from volunteers. The Lions Club offers help with eye problems. Syna-

gogues and local churches provide spiritual support, transportation, social activities, weekly home visits and a variety of other assistance.

### Conclusion

In businesses and corporations throughout the country, it is important for EAP staff and other human resources personnel to have a basic knowledge of public and voluntary sector programs that support older adults and their caregivers. In each community there is an Area Agency on Aging, and most of these agencies have a service referral list, or booklet, detailing local resources. Such booklets ought to be on the desks of employee assistance personnel.

Often the employee's request for help will come at a time of great stress. Human resources personnel can reduce needless searching for the 'right' source of help and relieve caregivers of much of the anxiety that goes with entering an unknown service system.

Additional resources such as employee support groups, caregiver forums, booklets and service information packages can enhance the basic corporate response. As we enter the 21st century, we face a rising tide of older adults. Employee caregivers will need appropriate corporate support programs and policies. Such corporate efforts will become the norm rather than the exception as all of our social institutions react to the aging of our society. ■

JUDY MANN

## The Leave Act's Costs

**S**ometime this spring, the House of Representatives is expected to vote on the Family and Medical Leave Act—an extremely modest measure by now—which would establish a minimum standard governing leave policies in the U.S. work place for employees who have family caretaking obligations.

Quite predictably, the bill has aroused organized opposition from business led by the U.S. Chamber of Commerce, which grossly misrepresented in congressional testimony the cost of such a measure to business. If the chamber's way with numbers is representative of the business community as a whole, no wonder we have a trade deficit. The chamber told the Senate subcommittee on children, families, drugs and alcoholism that the original bill would cost businesses \$16.2 billion a year. Sen. Christopher J. Dodd (D-Conn.) had trouble swallowing that and the chamber returned with an estimate of \$2.6 billion. The General Accounting Office has priced the bill at less than \$500 million—the cost to employers of providing health coverage for employers who are on unpaid leave.

The bill is being backed by all of the Democratic presidential candidates. Sen. Albert Gore Jr. (Tenn.) is a Senate cosponsor. The Reagan administration is opposing the bill on grounds that it would hurt small businesses and that the federal government should not be mandating benefits.

The original bill has been compromised in two areas: the length of unpaid leave that workers would be entitled to take, which has been reduced, and the size of the businesses that would be covered, which has been enlarged. The House version of the bill requires public and private employers with 50 or more employees to provide up to 10 weeks of unpaid leave over a two-year period for an employee to take care of a newborn or adopted child, or a seriously ill child or parent. Employees could take up to 15 weeks of unpaid leave if they are seriously ill and would be guaranteed of returning to their jobs or equivalent jobs. The employer would have to pay the employee's health benefits during the leave.

The Senate version provides longer periods of leave and covers employers of 15 or more persons, but it falls dramatically short of the House version in one major aspect: It does not provide for leave to care for a parent who is seriously ill.

The Family and Medical

Leave Act is a response, albeit a limited one, to the changes brought on in the U.S. family by economic pressures that have propelled women out of their homes and into the work force. In 1986 more than two-thirds of U.S. women were in the work force. Caring for dependent children and parents, however, remains principally a job done by women.

An analysis by the Institute for Women's Policy Research by Robert M. Spalter-Roth and Heidi I. Hartmann looks at the cost to workers and taxpayers of not having a national leave policy. The researchers used data gathered by the Institute for Social Research at the University of Michigan from a survey of 7,000 households that are interviewed each year.

The study found that new mothers who had no leave other than vacation "were in significantly worse economic circumstances" than mothers with leave policies in the year before the birth and that their circumstances continued to decline. "When those losses are generalized to estimate the costs to all employed women who give birth without leave, this loss amounts to \$607 million annually. . . . Taxpayers bear an additional \$108 million in assistance costs for those not covered by some form of parental leave."

The study found that black people, in particular, suffered heavy, long-term financial losses when they or members of their families had long-term illnesses and they did not have the right to reemployment. Unemployment hours for everyone nearly doubled after an illness. The study estimated that this resulted in an additional \$8 billion in transfer payments borne by taxpayers. "The medical leave aspect of the [act] would mitigate these costs because it would ensure the right to reemployment, thus shortening or eliminating the amount of time unemployed workers receive income assistance," the researchers suggest.

GAO estimated that the cost to business of providing parental leave under the House version at \$102 million a year. The study found that a lack of leave and the resulting unemployment costs workers and taxpayers \$715 million a year. Opponents of the bill don't want the government mandating employee benefits. Under the present system, however, the government has mandated an employer benefit in that taxpayers are subsidizing leave policies that result in unemployment and welfare.

Attachment  
B

A Survey of Companies  
in the New York  
Metropolitan Area

# Employer Support for



# Employee Caregivers

prepared by

Leon J. Warshaw, M.D.

Judith K. Barr, Sc.D.

Irene Rayman, Ph.D.

Mark Schachter, M.B.A.

and

Theodore G. Lucas, M.P.A.

This project was supported  
by grants from Exxon  
Corporation and Empire  
Blue Cross and Blue  
Shield.

The New York Business Group on Health, Inc.  
622 Third Avenue - 34th Floor  
New York, New York 10017  
(212) 808-0550

Attachment  
C

Additional copies: Members \$15.00; Non-members \$30.00

The purposes of this study are: to assess the awareness of corporate members of the NYBGH about the problems of employees who have responsibility of caring for an incapacitated dependent family member at home, and to determine the programs and policies used in companies to deal with employee caregiver problems. During the 1960's, precipitated by the influx of women into the labor force, companies were forced to consider employer-supported child care, and attention to this issue continues today. More recently, a second issue, also related to the growing female workforce, has emerged concerning the care of chronically disabled or incapacitated family members (such as an impaired child, an elderly or disabled spouse or parent). The increase in numbers of individuals requiring some form of dependent care (notably, the elderly and impaired children), coupled with the diminishing capability of the family (particularly, women) to meet this need, creates a situation in which other institutions within our society must attempt to fill the gap.

The NYBGH survey is an important first step in examining the role of business and industry in regard to these issues. Three dimensions have been studied:

- knowledge — the degree to which responding companies have identified the needs of employee caregivers and the prevalence of work-related problems;
- attitudes — the degree to which responding companies believe that they are responsible for the personal and family problems of workers;
- behavior — the degree to which responding companies have initiated and implemented policies and programs for employee caregivers.

Findings from this descriptive study of a relatively small number of companies in the Greater New York area suggest that there is some disparity among these three dimensions of the employer's perspective. Overall, most companies feel that the employer should be responsible for meeting the needs of employees, and at least half say they know of employees with caregiving problems; yet, very few have provisions or policies specifically for these employees. The most consistent finding is that corporate awareness, attitudes, and behavior regarding the needs of employee caregivers are associated with a variety of organizational characteristics, including: size (number of employees and annual gross volume) and composition of workforce (age and sex). In general, the largest companies (2500 or more employees and annual gross volume of \$10 million or more) and those with a predominantly female (greater than 50 percent) and younger (greater than 50 percent under age 45) workforce are more likely than others to identify caregiver needs, report a prevalence of work-related problems, feel responsible for meeting the needs of employees, and provide policies and programs to meet these needs.

Because these findings point to organizational characteristics associated with caregiver needs and programs, they also suggest that companies should examine their own workforce composition, the extent of caregiver problems, and mechanisms for dealing with these problems. A company policy toward employee caregivers should be considered and guidelines for handling such problems developed and disseminated. Sharing information with other companies may be helpful in devising strategies to respond to current societal needs.

# Introduction

---

The quality of worklife, productivity, the relationship of people to work, and the effects of stress on employee well-being seem to be established as issues of the 1980's. Employers have learned that, while their primary focus is on what happens at the workplace, they must also be cognizant of the personal problems arising in the employees' family life and in the community (NYBGH, 1983). With this, some employers have begun to realize that the traditional benefit plans, initiated during the post-war period, may no longer be sufficient to meet the needs of all or, perhaps, most employees (Bloom and Martin, 1983).

One issue which has received virtually no organized worksite attention involves employee caregivers, those who are responsible for the care of an incapacitated or chronically disabled dependent family member (for example, a parent, spouse, or child). Traditionally, the role of caregiver has been assigned to women. A number of social and demographic changes in our society within the past decade suggest that the demand for the care of dependent family members is increasing at the same time that traditional caregivers, women, are becoming less available to fill that role. While employee caregivers have yet to be recognized as a significant problem in the workplace, there is reason to believe that this issue is becoming increasingly more important.

## III. EMPLOYEE CAREGIVER PROBLEM

Family provided home care for dependent family members has a long established history in our society (Horowitz, 1981; Sanders and Seelback, 1981; Soldo and Myllyluoma, 1983). The demand for the care of family members is increasing due to some demographic and social changes in our society within the last decade:

- (1) There has been a notable increase in two segments of the population who are most likely to need some form of dependent care:
  - the elderly (age 65 and older)
  - individuals with some form of activity limitation
- (2) The family's traditional role as caregiver may be threatened due to:
  - increased participation of women in the workforce
  - increased geographic mobility
  - decreased size of American families
- (3) Concurrent efforts to reduce institutionalization in favor of home care may put further pressure on families. There is both a shortage of inpatient facilities to house all the people who might be eligible for them and an inability to afford such expensive care for all those who might wish to have it. At the same time, there is growing awareness that with formal (e.g., home care agencies, meals-on-wheels, day care centers) and informal (e.g., family, neighborhood and community groups) support systems, such individuals can live healthier, happier, and more meaningful lives in their own homes with much less of a drain on their own and governmental financial resources.

## IV. RESPONSIBILITY

The business community, along with the non-profit service sector, the government, and the public, has begun to identify the needs of employees and their families and to experiment with both long and short-term solutions to create a balance between work and non-work domains. One area which has received considerable attention since the 1960's is employer-supported child care (Burud, et al, 1984). Although the number of employers with child care programs remains small, there is evidence that substantial growth has occurred in more recent years. Current tax legislation, in particular, the Dependent Care Assistance Program of the 1951 Economic Recovery Tax Act (ERTA) has contributed to this growing support by employers. This legislation makes employer contributions for dependent care tax free for employees while still qualifying as a tax deductible business expense for the employer (Anderson, 1983; William M. Mercer-Meidinger, Inc., 1983).

It has been less well-recognized, however, that the range of family caregiving responsibilities of workers may extend beyond children to include other dependent family members as well. A large, but yet unidentified number of workers, typically women, is responsible for the care of a chronically disabled spouse or an elderly parent. Studies have suggested that such family caregivers are often strained financially, physically and emotionally (Cantor, 1983; NYSOA, 1983). The extent to which the competing demands of work and family care may actually inhibit labor force participation or affect either the quality of family care or job performance has not been adequately explored.

Perhaps the major reason for the lack of attention to this issue by employers has been the focus on the problems of the patient, the recipient of the care. These have been addressed as community, societal and governmental affairs by advocacy groups on behalf of the patients and by government agencies as providers or payers of the care they require. However, except for members of coalitions like NYBGH which do concern themselves with the health care needs of the whole population and the total health care delivery system, employers have avoided involvement in them. (This is beginning to change as employers who provide health care benefits to retirees and their dependents are beginning to recognize the financial implications of that obligation.)

The ability of employee caregivers to perform adequately on the job should be a concern of the employer. These are generally older, mature, senior employees whose knowledge, experience and stability make them valuable assets to the enterprise. Since many are in supervisory or leadership positions, their lapses may be reflected in the performance of those who report to them as well as their peers.

For the employee caregivers themselves, keeping the job by maintaining adequate performance is equally important. Their earnings are important not only to them but often also assist in providing for the care of their dependents. Transcending the financial implications in many instances is the significance of the job in terms of a career, self-realization, or simply as an escape from the confinement of the household.

The issue, then, is what is the responsibility of the employer to assist employee caregivers to play their dual roles and how may that responsibility be most effectively discharged. There are three potential beneficiaries:

- the employees whose health and well-being are preserved;
- the employer who profits from their continuing productivity and their lower utilization of health care and other benefits; and
- the dependents for whom the employees' support is essential.

### III. NYBGH SURVEY

To address this issue, the NYBGH initiated a program to determine the extent to which the problems of employee caregivers and their effects on the workplace have been identified and addressed by employers and, based on these findings, to propose strategies for dealing with caregiver problems in the workplace. This paper reports the findings of the initial phase of that program, a survey of NYBGH members which focuses on employers' views of and experience with employee caregivers.

March 7, 1989

To: Members of the 1989  
Alaska Legislature

From: DADS AGAINST DISCRIMINATION  
POLITICAL ACTION COMMITTEE

Subject: Support for HB 155 -  
The Family Leave Bill



DADS AGAINST DISCRIMINATION (DADS) wholeheartedly supports the Family Leave which will be granted to fathers by this bill, so that they may spend up to 18 weeks with their newborn child, if they are a state employee in a non-critical position.

There has been a dramatic increase in the role of the nurturing father, as described by many researchers, including Kyle D. Pruett, Yale University Child Study Center psychiatrist in his new book entitled "The Nurturing Father." Dr. Pruett shows the capacity of men, both divorced and married, in caring for their children as the "single most creative, fulfilling, engrossing, and enriching endeavor of a man's adult life." Many men are supportive of their children in every sense of the word today.

The critical three-way bonding that occurs when father, mother and child live out together the early weeks of a child's life cements the family, the lifelong parent-child relationship and provides a solid psychological foundation for the child.

Please vote "YES" on HB 155.

Sincerely,

Robert R. Armstrong, President  
DADS AGAINST DISCRIMINATION (DADS) PAC

Phone: 780-4684

March 24, 1989



Good Morning Mr. Chairman,

My name is Robert M. Rickson and I am the Anchorage Coordinator of DADS. Thank you for this opportunity to talk to you. I would like to say that I'm very happy to see a bill of this nature and give it my wholehearted support. The main reason I support it is that it recognizes the fact that a father forms a bond with his child. this bond may be of a different nature than the mothers but just as strong. Let me repeat that, IT IS JUST AS STRONG!!! By allowing the father family leave you are not only allowing a critical three way bond, between the father, the mother and the baby, to be formed, but the baby will feel twice the touch, twice the emotions, twice the physical contact on a full time scale and will feel more like a whole person than baby's in the past. The reason that most baby's seem to know their moms better is because of the extra time the mom spends with the child while the father is at work.

So long as the father is using leave that he has earned and then taking the rest of the time as unpaid leave, I don't see how a employer can lose money. In fact, it will save money in the form of a happier, loyalier, and more productive employee.

The introduction of this bill is LOOKING in the right direction. By passing this bill you will be taking a DEFINITE STEP in the right direction. The passage of this bill will save jobs, money and most importantly it will build the strongest family ties Alaska has seen since the days before the Alaskan divorce rate was 7 out of 10 as it is today.

Thank you for your time and please, carefully look at the importance of this bill to Alaskan fathers and their families.

Sincerely,

*Robert M. Rickson Sr.*

Robert M. Rickson Sr.

Anchorage Coordinator DADS



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

March 29, 1989

MEMORANDUM

TO: Representative Kay Brown

ATTN: Roxanne Turner

FROM: Maria Gladziszewski *M. Gladziszewski*  
Legislative Analyst

RE: Family and Parental Leave Statutes in Other States  
Research Request 89.320

You asked us to find out which states' family or parental leave provisions are statutory and which are by labor agreement. You also wanted some sense of how these laws are working; you were especially interested in the impact on small businesses.

Table 1 lists states with statutory provisions for family leave (leave for both sexes for the birth or adoption of a child or to care for seriously ill family members) and parental leave (leave for both sexes for the birth or adoption of a child). Three states (Connecticut, Maine, and Wisconsin) require family leave. Three states (Minnesota, Oregon, and Rhode Island) require parental leave.<sup>1</sup> Table 2 lists states with provisions for maternity disability.

We were not able to determine the impact on small businesses because no state requires family or parental leave for employers with fewer than 21 employees. In addition, most parental and family leave state legislation has taken effect within the last year and no state official contacted was able to comment on the impact of the legislation on smaller businesses. Labor agreements for family or parental leave are negotiated by individual unions and, therefore, no statewide family or parental leave policies are by labor agreement. It was not possible, within the research time available for this request, to contact representatives from the business communities in the states with family or parental leave provisions.

---

<sup>1</sup>Statutes from Connecticut, Oregon and Rhode Island are attached.

Representative Brown  
March 29, 1989  
Page 2

Federal legislation now pending in the House of Representatives would require employers of 50 or more employees to provide for 10 weeks of unpaid family leave; three years after implementation of the Family Medical Leave Act, the law would apply to employers of 35 or more employees. The Senate version of the bill applies to employers of 20 or more employees.<sup>2</sup>

I hope this information is useful. Please call this office if you have additional questions or need more information.

Attachment

---

<sup>2</sup>The Family Medical Leave Act of 1989, HR-770, went through committee mark-up on March 8, 1989, and is expected to reach the floor of the House by Mother's Day. The Senate version of the bill is expected to reach the Senate floor by mid-April.

TABLE 1  
STATES WITH STATUTORY PROVISIONS FOR FAMILY OR PARENTAL LEAVE

"Family leave" guarantees men and women time to care for a new child or seriously-ill child, spouse, or parent.

"Medical leave" guarantees time off for an employee's own serious health condition (including pregnancy and childbirth).

"Parental leave" guarantees men and women time to care for a newborn or newly-adopted child; may include care for seriously ill children.

STATE	PURPOSES	WEEKS	EMPLOYERS COVERED	EFFECTIVE DATE OF LEGISLATION
Connecticut 1987 Conn. Pub. Acts 87-291	Family leave	24	public sector	July 1988
	Medical leave	24	public sector	
Maine Me. Rev. Stat. Tit. 26, Sections 843-49	Family or medical leave	8	25+ employees	July 1988
Minnesota Minn. Stat. Sec. 181.930 -.980	Parental leave	6	21+ employees	August 1987
Oregon Or. Rev. Stat. Sec. 659.010-.121 659.360-.370	Parental leave	12	25+ employees	January 1988
Rhode Island RI ST 28-48-1 to 9	Parental leave; includes serious illness of a child	13	private sector, 50+ employees; public sector, 30+ employees	July 1987
Wisconsin 1987 Wis. Act 287	Parental leave;	6	50+ employees	April 1988
	Family leave for serious illness of family member;	2	50+ employees	
	Medical leave	2	50+ employees	

Note: The California legislature enacted a parental leave bill in 1987 that would have required employers with 25 or more employees to allow 16 weeks parental leave every two years. The bill was vetoed by Governor Deukmejian.

Source: Women's Legal Defense Fund.

Prepared by the House Research Agency, March 1989 (89-320A).

TABLE 2  
STATES WITH STATUTORY PROVISIONS FOR MATERNITY LEAVE

STATE	LEAVE	WEEKS	EMPLOYERS COVERED
Arkansas AR ST 21-4-209	Maternity disability	24	state employees
California 2 Cal. Admin. Code 7291.2(d)(3)	Maternity disability	16	all
Colorado 3 Col. Code of Regs 708, Sec 8	Maternity leave for a reasonable period		all
Delaware 14 Del. C. 1323	Maternity disability	12	public school teachers
Florida Fl St 110.221	Maternity disability	24	state employees
Hawaii Regs 12-23-1 to 12-23-22. 12-12-58	Maternity disability for a reasonable period		1+ employees
Illinois Ill Rev Stat ch 108 1/2 p 17-134	Maternity leave		public school teachers
Indiana IN ST 20-6.1-6-4	Leave of absence up to one year following birth		public school teachers
Iowa Iowa Code 501A.15-.17	Maternity disability	8	4+ employees
Kansas 1 Kans. Admin. Regs. 21-32-6	Maternity leave for a reasonable period		4+ employees
Kentucky Ky. Rev. Stat. 337.015	Adoption of a child under age 7	6	8+ employees
Louisiana LSA-RS 23:1007	Maternity disability	16	26+ employees
Maryland	Maternity leave		state employees
Massachusetts* Mass. Gen. Laws Ch. 149, Sec. 105D	Birth or adoption of a child under age three; Female employees only	8	6+ employees
Missouri MO ST 168.122	Grants Board of Education authority to establish maternity leave policy		public school employees

TABLE 2 (Continued)  
STATES WITH STATUTORY PROVISIONS FOR MATERNITY LEAVE

STATE	LEAVE	WEEKS	EMPLOYERS COVERED
Montana MT ST 49-2-310 to 49-2-311, 49-2-501 to 49-2-509	Maternity leave for a reasonable period		1+ employees
Nevada NV ST 608.159	Maternity disability		employers who grant medical disability
New Hampshire NH ST 354-A:9-10	Maternity disability		6+ employees
Pennsylvania PA Admin Code 41.104, 42.11-141	Adoption		employers that grant leave for childbearing and child care; 4+ employees
Tennessee** TN ST 50-1501 to 50-1505	Maternity disability and nursing	16	100+ employees
Washington Wash. Admin. Code 162-30-020	Maternity leave for period of physical disability		1+ employees

\* The 1972 Massachusetts maternity leave law was amended in December of 1984 to include leave for adoption of a child under age three.

\*\* The Tennessee law as originally enacted required leave for female employees for the birth or adoption of a child. Because of an opinion issued by the Tennessee Attorney General in December, 1988, the Tennessee legislature revised the statute to make it applicable only to natural mothers.

Source: National Conference of State Legislatures and the Women's Legal Defense Fund

Prepared by the House Research Agency, March 1989 (89-320A).

Louis Legref.

STATE OF CONNECTICUT

**PUBLIC and SPECIAL ACTS**



**JANUARY, 1987, REGULAR SESSION**  
**JULY, 1987, SPECIAL SESSION**

---

**Volume 1**

**P.A. 87-1—P.A. 87-376**

a permanent location, such person shall seek recovery first from the association operating in the location of the property. [ , and if it is a workers' compensation claim, he shall seek recovery first from the association operating in the area of the residence of the claimant.] Any recovery under this chapter shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent having a like function to that of said association.

Sec. 6. Section 38-303 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) This chapter shall apply to direct life insurance policies, accident and health insurance policies, annuity contracts and contracts supplemental to life and accident and health insurance policies and annuity contracts issued TO A RESIDENT by persons licensed to transact insurance in this state at any time.

(b) This chapter shall not apply to: (1) That portion or part of any variable life insurance or variable annuity contract not guaranteed by an insurer; (2) that portion or part of any policy or contract under which the risk is borne by the policyholder; (3) any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued, or any policy or contract issued by a nonprofit hospital or medical service corporation.

Sec. 7. Subsection (f) of section 38-308 of the general statutes is repealed.

Sec. 8. This act shall take effect from its passage.

Approved June 10, 1987

Substitute Senate Bill No. 413

**PUBLIC ACT NO. 87-291**

**AN ACT CONCERNING PARENTAL AND MEDICAL LEAVE FROM EMPLOYMENT.**

Section 1. (NEW) (a) Each permanent employee, as defined in subsection (s) of section 5-196 of the general statutes, shall be entitled to the following: (1) A maximum of twenty-four weeks of family leave of absence within any two-year period upon the birth or adoption of a child of such employee, or upon the serious illness of a child, spouse or parent of such employee; and (2) a maximum of twenty-four weeks of medical leave of absence within any two-year period upon the serious illness of such employee. Any such leave of absence shall be without pay. Upon the expiration of any such leave of absence, the employee shall be entitled (A) to return to the employee's original job from which the leave of absence was provided or, if not available, to an equivalent position with equivalent pay, except that in the case of a medical leave, if the employee is medically unable to perform the employee's original job upon the expiration of such leave, the personnel division of the department of administrative services shall endeavor to find other suitable work for such employee in state service, and (B) to all accumulated seniority, retirement, fringe benefit and other service credits the employee had at the commencement of such leave. Such service credits shall not accrue during the period of the leave of absence.

(b) The leave of absence benefits granted by this section shall be in addition to any other paid leave benefits and benefits provided under subdivision (7) of subsection (a) of section 46a-60 of the general statutes which are otherwise available to the employee.

(c) Any permanent employee who requests a medical leave of absence due to the employee's serious illness or a family leave of absence due to the serious illness of a child, spouse or parent pursuant to subsection (a) of this section shall be required by the employee's appointing authority, prior to the inception of such leave, to provide sufficient written certification from the physician of such employee, child, spouse or parent of the nature of such illness and its probable duration. For the purposes of this section, "serious illness" means an illness, injury, impairment or physical or mental condition that involves (1) inpatient care in a hospital, hospice or residential care facility or (2) continuing treatment or continuing supervision by a health care provider.

(d) Any permanent employee who requests a family leave of absence pursuant to subsection (a) of this section shall submit to the employee's appointing authority, prior to the inception of such leave, a signed statement of the employee's intent to return to the employee's position in state service upon the termination of such leave.

(e) Notwithstanding the provisions of subsection (b) of section 38-374 of the general statutes, the state shall pay for the continuation of health insurance benefits for the employee during any leave of absence taken pursuant to this section. In order to continue any other health insurance coverages during such leave, the employee shall contribute that portion of the premium the employee would have been required to contribute had the employee remained an active employee during the leave period.

(f) On or before July 1, 1989, and annually thereafter, the commissioner of administrative services shall report to the general assembly on the extent of use by permanent employees of leaves of absence pursuant to this section in the preceding twelve-month period, and the impact of such use on state employment. The commissioner shall gather necessary information for such reports in accordance with regulations adopted pursuant to section 2 of this act.

Sec. 2. (NEW) On or before July 1, 1988, the commissioner of administrative services shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, which establish procedures and guidelines necessary to implement the provisions of section 1 of this act, including but not limited to procedures for the periodic reporting by state agencies to the commissioner of their current experience with leaves of absence taken pursuant to said section. Such regulations may be adopted by the commissioner prior to July 1, 1988, but may not take effect prior to that date.

Sec. 3. This act shall take effect July 1, 1987, except that section 1 shall take effect July 1, 1988.

**659.340 Refusal to employ or otherwise discriminate solely because of employment of another family member prohibited; exceptions; enforcement.** (1) Except as provided in subsection (2) of this section, it is an unlawful employment practice for an employer solely because another member of an individual's family works or has worked for that employer to:

- (a) Refuse to hire or employ an individual;
  - (b) Bar or discharge from employment an individual; or
  - (c) Discriminate against an individual in compensation or in terms, conditions or privileges of employment.
- (2) An employer is not required to hire or employ and is not prohibited from barring or discharging an individual if such action:

- (a) Would constitute a violation of any law of this state or of the United States, or any rule promulgated pursuant thereto, with which the employer is required to comply;
- (b) Would constitute a violation of the conditions of eligibility for receipt by the employer of financial assistance from the government of this state or the United States;
- (c) Would place the individual in a position of exercising supervisory, appointment or grievance adjustment authority over a member of the individual's family or in a position of being subject to such authority which a member of the individual's family exercises; or
- (d) Would cause the employer to disregard a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business.

(3) As used in this section:

- (a) "Employer" has the meaning for that term provided in ORS 659.010.
- (b) "Member of an individual's family" means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent or stepchild of the individual.

(4) Subsections (1) to (3) of this section shall be enforced by the Commissioner of the Bureau of Labor and Industries in the same manner as provided in ORS 659.040 to 659.110 for enforcement of an unlawful employment practice. Violation of subsections (1) to (3) of this section subjects the violator to the same civil and criminal penalties as provided for violation of ORS 659.010 to 659.110. [(1), (2), (3) formerly 659.131; (4) formerly 659.136; 1983 c.225 §5; 1985 c.565 §90]

Note: 659.340 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**659.360 Denial of parental leave prohibited.** (1) It shall be an unlawful employment practice for an employer to refuse to grant an employee's request for a parental leave of absence for:

(a) All or part of the time between the birth of that employee's infant and the time the infant reaches 12 weeks of age, or, in the case of a premature infant, until the infant has reached the developmental stage equivalent to 12 weeks as determined by an attending physician; or

(b) All or part of the 12-week period following the date an adoptive parent takes physical custody of a newly adopted child under six years of age.

(2) The employer is not required to grant to an employee parental leave which would allow the employee and the other parent of the child, if also employed, parental leave totaling more than the amount specified in paragraphs (a) and (b) of subsection (1) of this section nor to grant to an employee parental leave for any period of time in which the child's other parent is also taking parental leave from employment.

(3) The employee seeking parental leave shall be entitled to utilize any accrued vacation leave, sick leave or other compensatory leave, paid or unpaid, during the parental leave. The employer may require the employee seeking parental leave to utilize any accrued leave during the parental leave unless otherwise provided by an agreement of the employer and the employee, by collective bargaining agreement or by employer policy.

(4) The employer may require an employee to give the employer written notice at least 30 days in advance of the anticipated date of delivery, stating the dates during which each parent intends to take parental leave. Duplicate copies of the notice shall be given to the employers of both parents. Both parents shall adhere to the dates stated in the notice unless:

- (a) The birth is premature;
  - (b) The mother is incapacitated due to birth such that she is unable to care for the child;
  - (c) The employee takes physical custody of the newly adopted child at an unanticipated time and is unable to give notice 30 days in advance; or
  - (d) The employer and employee agree to alter the dates of parental leave stated in the notice.
- (5) In cases of premature birth, incapacity or unanticipated taking of custody referred to in

subsection (4) of this section, the employer may require the employe to give notice of revised dates of parental leave within seven days after birth or taking of custody.

(6) The parental leave required by subsection (1) of this section is not required to be granted with pay unless so specified by agreement of the employer and employe, by collective bargaining agreement or by employer policy.

(7) The regular employment position of an employe on leave of absence under this section shall only be considered vacant for the period of the leave of absence, and the employe shall not be subject to removal or discharge from such position as a consequence of the parental leave of absence.

(8) Upon the termination of the parental leave of absence of the employe under this section, an employe shall be restored to the former or an equivalent job without loss of seniority, vacation credits, sick leave credits, service credits under a pension plan or any other employe benefit or right which had been earned at the time of the leave of absence but reduced by any paid leave that the employe used during the parental leave of absence. Benefits are not required to accrue during the parental leave of absence unless accrual is required under an agreement of the employer and the employe, a collective bargaining agreement or an employer policy. If the employer's circumstances have so changed that the employe cannot be reinstated to the former or equivalent job, the employe shall be reinstated in any other position which is available and suitable. However, the employer is not required to discharge any employe in order to reinstate the employe to any job other than the former or equivalent job unless required by an agreement of the employer and the employe, by collective bargaining agreement or by employer policy.

(9) If the employe fails to give the notice that may be required by subsection (4) of this section, the employer may require the parental leave to commence up to three weeks from the date of notice and may reduce the parental leave required by this section by three weeks.

(10) This section is not applicable if:

(a) The employe was employed by the employer for fewer than 90 days immediately prior to the first day of the parental leave of absence;

(b) The employe is employed by the employer on a seasonal or temporary basis for a period of time defined at the time of hire to be less than six months;

(c) The employer employs fewer than 25 persons immediately prior to the first day of the leave of absence; or

(d) The employer offers to the employe a nondiscriminatory cafeteria plan, as defined by Section 125 of the Internal Revenue Code of 1986, providing as one of its options a parental leave benefit that is at least equivalent to the benefit required by this section.

(11) Nothing in this section is intended to reduce the rights to parental leave to which an employe may be entitled under any agreement between the employer and the employe, collective bargaining agreement or employer policy. [1987 c.319 §2]

**659.365 Procedure to enforce ORS 659.360.** (1) Complaints may be filed by employes with the Commissioner of the Bureau of Labor and Industries. The Commissioner of the Bureau of Labor and Industries shall enforce ORS 659.360 in the manner as provided in ORS 659.010 to 659.110 and 659.121 for the enforcement of other unlawful employment practices.

(2) Violation of ORS 659.360 subjects the violator to the same civil remedies and penalties as provided in ORS 659.010 to 659.110 and 659.121. [1987 c.319 §3]

**659.370 Posting of notice on ORS 659.360.** A notice of the provisions of ORS 659.360 shall be provided by the Bureau of Labor and Industries and shall be posted in every establishment in which employes are employed. [1987 c.319 §4]

#### CIVIL RIGHTS OF PHYSICALLY AND MENTALLY HANDICAPPED

**659.400 Definitions for ORS 659.400 to 659.435.** As used in ORS 659.400 to 659.435, unless the context requires otherwise:

(1) "Employer" means any person who employs six or more persons and includes the state, counties, cities, districts, authorities, public corporations and entities and their instrumentalities, except the Oregon National Guard.

(2) "Handicapped person" means a person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment.

(3) As used in subsection (2) of this section:

(a) "Major life activity" includes, but is not limited to self-care, ambulation, communication, transportation, education, socialization, employment and ability to acquire, rent or maintain property.

Or. Rev. Stat. § 659.010 (6)

9460

Oregon

202 8-83

	Civil Rights of Mentally and Physically Handicapped	
659.400	Definitions for ORS 659.400 to 659.435	27,000.400
659.405	Policy	27,000.405
659.410	Discrimination against workmen applying for workmen's compensation benefits prohibited	27,000.410
659.415	Reinstatement of workmen receiving compensable injuries; certificate of physician evidencing ability to work	27,000.415
659.420	Employment of injured workman in other available and suitable work; certificate of physician, effect of collective bargaining agreement	27,000.420
659.425	Discrimination against mentally or physically handicapped in employment or public accommodation prohibited; mental disorder treatment not evidence of inability to work or manage property	27,000.425
659.430	(Sec. deals exclusively with real estate transactions—not reproduced)	27,000.430
659.435	Enforcement powers of commissioner	27,000.435
659.990	Penalties	27,000.930

§ 27,000.10

Sec. 659.010. Definitions for ORS 659.010 to 659.110 and 659.400 to 659.435.—As used in ORS 659.010 to 659.110 and 659.400 to 659.435, unless the context requires otherwise:

(1) "Bureau" means the Bureau of Labor.

(2) "Cease and desist order" means an order signed by the commissioner, taking into account the subject matter of the complaint and the need to supervise compliance with the terms of any specific order issued to eliminate the effects of any unlawful practice found, addressed to a respondent requiring the respondent to:

(a) Perform an act or series of acts designated therein and reasonably calculated to carry out the purposes of ORS 659.010 to 659.110 and 659.400 to 659.435, eliminate the effects of an unlawful practice found, and protect the rights of the complainant and other persons similarly situated;

(b) Take such action and submit such designated reports to the commissioner on the manner of compliance with other terms and conditions specified in the commissioner's order as may be required to assure compliance therewith; or

(c) Refrain from any action designated in the order which would jeopardize the rights of the complainant or other person similarly situated or frustrate the purpose of ORS 659.010 to 659.110 and 659.400 to 659.435.

(3) "Commissioner" means the Commissioner of the Bureau of Labor.

(4) "Conciliation agreement" means a written agreement settling and disposing of a complaint under ORS 659.010 to 659.110 signed by a respondent and an authorized official of the Bureau of Labor.

(5) "Employee" does not include any individual employed by the individual's parents, spouse or child or in the domestic service of any person.

(6) "Employer" means any person, including state agencies, political subdivisions and municipalities, who in this state, directly or through an agent, engages or utilizes the personal service of one or more employees reserving the right to control the means by which such service is or will be performed.

(7) "Employment agency" includes any person undertaking to procure employees or opportunities to work.

(8) "Entity" includes employers, labor organizations, employment agencies, places of public accommodation as defined in ORS 30.675 or vocational, professional or trade schools.

(9) "Labor organization" includes any organization which is constituted for the purpose, in whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.

(10) "National origin" includes ancestry.

(11) "Person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.

(12) "Respondent" includes any person or entity against whom a complaint or charge of unlawful practices is filed with the commissioner or whose name has been added to such complaint or charge pursuant to subsection (1) of ORS 659.050.

(13) "Unlawful employment practice" includes only those unlawful employment practices specified in ORS 654.062(5), 659.030, 659.035, 659.227, 659.270, 659.295, 659.330, 659.340, 659.410, 659.415, 659.420 and 659.425.

(14) "Unlawful practice" means any unlawful employment practice or any distinction, discrimination or restriction on account of race, religion, color, sex or national origin made by any place of public accommodation as defined in ORS 30.675 or by any person acting on behalf of any such place or by any person aiding or abetting such place or person in violation of section 14 of this 1973 Act, or any violation of ORS 345.240, 659.033, 659.037, or rules adopted pursuant to subsection (1) of ORS 659.103, but does not include a refusal to furnish goods or services when the refusal is based on just cause. [Sec. 659.010 reads as last amended by: Ch. 813, L. 1979, effective October 3, 1983; Ch. 225, L. 1983, effective October 15, 1983.]

RHODE ISLAND  
RI

(4) Any individual's benefit rate which is in effect for a benefit year beginning prior to July 1, ~~1983~~ 1987, shall continue in effect until the end of that benefit year.

(b) *Dependents' allowance.*

(1) An individual to whom benefits for total or partial unemployment are payable under this chapter with respect to any week, shall, in addition to those benefits, to be paid with respect to each week, a dependents' allowance of ~~five~~ ten dollars (~~\$5.00~~) (\$10.00) or five percent (5%) of the individual's benefit rate which ever is greater for each of that individual's children, including adopted and step-children, who, at the beginning of the individual's benefit year, is under eighteen (18) years of age, and who is at that time in fact dependent on that individual.

(2) \* \* \*

SECTION 2. This act shall take effect July 1, 1987.

---

---

CHAPTER 366

87-H 5473A am  
Approved Jul. 1, 1987.

**AN ACT RELATING TO PARENTAL LEAVE**

It is enacted by the General Assembly as follows:

**SECTION 1. TITLE 28 OF THE GENERAL LAWS ENTITLED "LABOR AND LABOR RELATIONS" IS HEREBY AMENDED BY ADDING THERETO THE FOLLOWING CHAPTER:**

**CHAPTER 48  
PARENTAL LEAVE**

**28-48-1. Definitions.** — As used in this chapter, the following words and terms shall have the following meanings:

- (a) "Director" means the director of the department of labor.
- (b) "Employee" means any full-time employee who works an average of thirty or more hours per week.
- (c) "Employer" means and includes:
  - (1) any person, sole proprietorship, partnership, corporation or other business entity that employs fifty (50) or more employees,
  - (2) the state of Rhode Island (including the executive, legislative and judicial branches), and any state department or agency that employs any employees, and
  - (3) any city or town or municipal agency that employs thirty (30) or more employees and

(4) any person who acts directly or indirectly in the interest of any employer.

(d) "Parental leave" means leave by reason of:

(1) the birth of a child of an employee; or

(2) the placement of a child sixteen (16) years of age or less with an employee in connection with the adoption of such child by the employee, or (3) a seriously ill child.

(e) "Seriously ill child" means a child under the age of 18 who by reason of an accident, disease or condition (1) is in imminent danger of death or (2) faces hospitalization involving an organ transplant, limb amputation or such other procedure of similar severity as shall be determined through regulation by the director of labor in consultation with the director of health.

**28-48-2. Parental leave requirement.** — (a) Every employee who has been employed by the same employer for twelve (12) consecutive months shall be entitled, upon advance notice to his or her employer, to thirteen (13) consecutive work weeks of parental leave in any two (2) calendar years. The employee shall give at least thirty (30) days' notice of the intended date upon which parental leave shall commence and terminate, unless prevented by medical emergency from giving such notice. The director shall promulgate regulations governing the form and content of the employee's notice to the employer.

(b) Parental leave granted pursuant to this chapter may consist of unpaid leave. If an employer provides paid parental leave for fewer than thirteen (13) weeks, the additional weeks of leave added to attain the total of thirteen (13) weeks required by subsection 28-48-2(a) may be unpaid.

**28-48-3. Employment and health benefits protection.** — (a) Every employee who exercises his or her right to parental leave under this chapter shall, upon the expiration of such leave, be entitled to be restored by the employer to the position held by the employee when the leave commenced, or to a position with equivalent seniority, status, employment benefits, pay and other terms and conditions of employment.

(b) During any parental leave taken pursuant to this chapter the employer shall maintain any existing health benefits of the employee in force for the duration of such leave as if the employee had continued in employment continuously from the date he or she commenced such leave until the date he or she returns to employment pursuant to subsection 28-48-3(a).

Prior to commencement of parental leave, the employee shall pay to the employer a sum equal to the premium required to maintain the employee's health benefits in force during the period of parental leave. The employer shall return such payment to the employee within ten (10) days following the employee's return to employment.

**28-48-4. Effect on existing employment benefits.** — (a) The taking of parental leave pursuant to this chapter shall not result in the loss of any benefit accrued before the date on which the leave commenced.

(b) Except as provided in subsection 28-48-3(b), nothing in this chapter shall be construed to entitle any employee who takes parental leave pursuant to this chapter to any benefit other than benefits to which the employee would have been entitled had he or she not taken the leave.

DIVISION OF LABOR  
 STATE OF MICHIGAN  
 JANUARY 1987

(c) Nothing in this chapter shall be construed to affect an employer's obligation to comply with any collective bargaining agreement or employment benefit plan that provides greater parental leave rights to employees than the rights provided under this chapter.

(d) The parental leave rights mandated by this chapter shall not be diminished by any collective bargaining agreement or by any employment benefit plan.

(e) Nothing in this chapter shall be construed to affect or diminish the contract rights or seniority status of any other employee of any employer covered by this chapter.

**28-48-5. Prohibited acts.** — (a) It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by this chapter.

(b) It shall be unlawful for any employer to discharge, fine, suspend, expel, discipline, or in any other manner discriminate against any employee for exercising any right provided by this chapter.

(c) It shall be unlawful for any employer to discharge, fine, suspend, expel, discipline, or in any other manner discriminate against any employee for opposing any practice made unlawful by this title.

**28-48-6. Judicial enforcement.** — A civil action may be brought in the superior court by an employee or by the director against any employer to enforce the provisions of this title or of any order issued by the director pursuant to section 28-48-7. The court may enjoin any act or practice that violates or may violate any provision of this chapter, and may order such other equitable relief as is necessary and appropriate to redress such violation or to enforce any provision of this chapter.

**28-48-7. Enforcement powers of the director.** — If, after giving an employer written notice and an opportunity to be heard, the director finds that the employer has failed to comply with any provision of this chapter, the director may issue such orders as he or she deems necessary to protect the rights of any employee. The director shall promulgate such rules and regulations as are necessary and appropriate to carry out the provisions of this section.

**28-48-8. Civil penalty for violations.** — Any employer who shall violate any provision of this chapter, or of any order issued pursuant to section 28-48-7, shall be subject to a civil penalty of not more than one thousand dollars (\$1,000). In the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense.

**28-48-9. Severability.** — If any provision of this chapter or the application thereof to any person or circumstance is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application; and to that end, the provisions of this chapter are declared to be severable.

**SECTION 2.** This act shall take effect upon passage.

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
 Title: An Act relating to employee health insurance coverage, employment rights. BRII: Insurance  
 Sponsor: Brown, Ulmer, Gruenberg, Ellis, Components: Operations  
~~Requestor~~ and Spohnholz

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
----------------	----------	----------	----------	----------	----------	----------

<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
----------------	----------	----------	----------	----------	----------	----------

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

The bill does not affect the division.

Prepared by: Joan Brown, Administrative Officer Phone: 465-2597  
 Division: Insurance Date: 2-14-89

Approved by Commissioner: Larry Mercurieff Date: 2/14/89  
 Agency: Department of Commerce & Economic Development

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
Title: \* \_\_\_\_\_ BRU: Personnel

Sponsor: Brown, Ulmer, Gruenberg, Ellis Components: Centralized Administrative  
Requestor: \_\_\_\_\_ Services

\* An Act Relating to Employment Rights based on Pregnancy,  
Childbirth and Related Conditions and Adoption.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	2	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill would not have a direct fiscal impact on the Division of Personnel. Although full implementation of this legislation would result in costs throughout state government, these costs cannot be quantified accurately.

Prepared By: David K. F. Otto, Director *D.K.F.O.* Phone: 465-4430  
Division: Personnel Date: \_\_\_\_\_

Approved by Commissioner: John M. Andrews *J.M.A.* Date: 3/7/89  
Agency: Department of Administration

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

CONTINUATION of FISCAL NOTE ANALYSIS

HB 155

Current law, AS 39.20.225(b)(4), entitles female employees to a maximum of nine weeks of leave for childbirth. Collective bargaining agreements are consistent with this statute. HB 155 would:

1. Increase the maximum leave entitlement associated with childbirth to 18 weeks;
2. Provide an 18 week leave entitlement for adoption;
3. Entitle male employees to take leave in association with birth or placement of a child;
4. Entitle an officer or employee to 18 weeks of leave to care for a child, spouse or parent who has a serious health condition.

The leave guarantees found in this legislation would result in the following costs:

1. Sick leave usage could be expected to increase because it will become available under a new set of circumstances;
2. Training costs would increase. Employees who exercise their full rights under this legislation could be absent for 18 weeks in a 12- or 24-month period. Substitutes would be required for many, if not all, of these employees. Most substitutes would require either on-the-job or outside training before they could perform the full duties of the position temporarily vacated by the absent employee. If the training is provided on the job, the cost to the employer would be reduced productivity. If the training required is provided by an outside agency, such as computer training, the costs could be measured in lost productivity, plus the direct cost of providing the training;
3. Although substitute employees could be hired and possibly trained to temporarily replace employees who take leave, they could not be expected to produce at the same level as permanent, journey level employees;
4. This legislation does not require that employees take the 18 weeks of leave consecutively. If leave is taken sporadically and in short increments, it would be difficult to plan for the effective replacement of the absent employee. In cases where a replacement could not be found, an employee's absence could result in increased overtime, reduced productivity and/or lowered morale. These results may be most prevalent in institutions that require 24-hour coverage, such as Pioneers' Homes, correction facilities or the Alaska Psychiatric Institute.

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 155 (L&C) *CONF*  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
 Title: "An Act relating to... family leave." BRU: Labor Standards & Safety  
 Sponsor: Brown, et al. Components: Wage & Hour  
 Requestor: House Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		51.0	51.0	51.0	51.0	51.0
TRAVEL		6.0	6.0	6.0	6.0	6.0
CONTRACTUAL		5.4	5.4	5.4	5.4	5.4
SUPPLIES		0.4	0.4	0.4	0.4	0.4
EQUIPMENT		1.2	0.0	0.0	0.0	0.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	64.0	62.8	62.8	62.8	62.8

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		64.0	62.8	62.8	62.8	62.8
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	64.0	62.8	62.8	62.8	62.8

POSITIONS:

FULL-TIME		1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Under the provisions of this bill, the department would investigate alleged violations of the family leave law and attempt reconciliation. In order to do this, a Wage & Hour Investigator II located in Anchorage would be hired. This position would travel throughout the state to investigate the complaints. An effective date of July 1, 1989 is assumed.

Prepared by: Tom Stuart, Director *Stuart* Phone: 264-2452  
 Division: Labor Standards & Safety Date: 3/30/89

Approved by Commissioner: Jim Sampson *Sampson* Date: 3/30/89  
 Agency: Department of Labor

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

Position Title <b>Wage &amp; Hour Investigator II</b>			No. of Positions <b>1</b>	Range/Step <b>18A</b>	Barg. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>		Location <b>Anchorage</b>		Election District
Type of Expenditure			Amount		
1			2		3
Salary			<b>\$37,356</b>		
Benefits			<b>13,735</b>		
Premium Pay					
Other					
Total Personal Services			<b>\$51,091</b>		
Travel			<b>6,000</b>		
Contractual			<b>5,400</b>		
Commodities			<b>400</b>		
Equipment			<b>1,200</b>		
Other					
Total Cost			<b>\$64,091</b>		
Funding Source for Total Cost					
Federal Receipts 1002					
G. F. Match 1003					
General Fund 1004			<b>\$64,091</b>		
GF Program Receipts 1005					
Other					
Justification					
<p>This position would investigate alleged violations of the family leave law. The investigator would attempt to resolve violations by conference, conciliation, and persuasion.</p> <p>Travel costs would allow the investigator to cover complaints in all parts of the state.</p> <p>Contractual and commodity costs are average per-employee costs. Equipment would be a one-time expense for desk, chair, cabinets, etc.</p>					

**Request For  
New Position**

Agency Labor  
 BRU Labor Standards & Safety  
 Component Wage & Hour

Page 2 of 2  
 Revised Date

**FY 89**



# ALASKA STATE MEDICAL ASSOCIATION

2401 E. 42nd • Suite 104 • Anchorage, Alaska 99508 • (907)562-2662

March 1, 1989

Honorable Kay Brown  
House of Representatives  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Brown:

On behalf of the Alaska State Medical Association and myself, I would like to applaud your efforts in addressing health issues through the cosponsorship of House Bill 141. In addition, we continue to support your efforts on House Bill 155 as you again seek employment rights based on pregnancy and childbirth.

Our legislative committee has discussed this proposed legislation and compliments you for your leadership. If we can be of any service or offer any expertise on these or other health issues, please feel free to contact us.

Sincerely,

Ray Schalow  
Executive Director

Table 1. Pregnancy Leave Policies of Some Public and Private Sector Employers in Alaska

Employer	Applicable Policy	Number of Weeks Allowed	Compensation During Leave	Return Rights	Comments
PUBLIC SECTOR					
Anchorage School District (NEA represented employees)	disability leave	6 if natural, 8 if Cesarean	use sick leave then LWOP	Yes	
Bristol Bay Borough	maternity leave	9	use sick, then annual then LWOP	Yes	supervisor approval required if more than 9 weeks are required
City and Borough of Juneau	none	---	---	---	no policy for pregnant workers, an employee may use their accumulated personal leave or other employees may donate their leave
Fairbanks North Star Borough (APEA-represented employees)	maternity leave	13	use personal, then LWOP	Yes, with no loss of service time	may be extended an additional 90 days with a physicians statement; covered by medical benefits while on maternity leave
Juneau School District (NEA-represented employees)	maternity leave inc. in parental leave policy	not specified	use sick, then LWOP	Yes	the length of the leave period is determined by the employee and her doctor
Matanuska-Susitna Borough	maternity leave	8	use sick, then annual, then LWOP	Yes	this policy was just instituted with negotiation of current contract, prior policy was not formal, but generally 6 weeks were allowed
Municipality of Anchorage	medical LWOP or short-term disability	6  varies	no pay  some possible	Yes	

4000 5/12/74  
 CHUCK PAUL JAMES

Table 1. Pregnancy Leave Policies of Some Public and Private Sector Employers in Alaska

Employer	Applicable Policy	Number of Weeks Allowed	Compensation During Leave	Return Rights	Comments
PUBLIC SECTOR					
North Slope Borough	maternity leave	9	may use personal, then LWOP	Yes	may extend the leave period with doctor's certificate
State of Alaska (APEA-represented employees)	maternity leave	9	use sick, then annual, then LWOP	Yes	extensions may be granted with a doctor's certificate or by the supervisor
PRIVATE SECTOR					
ARCO	anticipated disability leave	25	may or may not be paid, can use sick leave for period actually disabled	yes, if return immediately after disability, otherwise, job not guaranteed	
construction companies (Teamsters)	disability leave	25	use sick, then annual may also be paid time loss benefits (\$100/week)	Yes, with seniority	

Table 1. Pregnancy Leave Policies of Some Public and Private Sector Employers in Alaska

Employer	Applicable Policy	Number of Weeks Allowed	Compensation During Leave	Return Rights	Comments
PRIVATE SECTOR					
Cook Inlet Region, Inc.	medical leave	12	LWOP	Yes	medical LWOP is used for all situations where an employee is absent for medical reasons, does not commence until sick and annual leave are used, health insurance is paid during medical leave; may be extended up to an additional 12 weeks
electrical utilities (IBEW-represented workers)	disability leave	8	LWOP	Yes, with seniority	the eight weeks begins after any medical disability ends, policy applies to the mother and father of newborns and adoptions
grocery stores (retail clerks represented by the UFCW)	maternity leave	25	use sick, may be paid \$100/wk for first 6 weeks	Yes, with seniority	
National Bank of Alaska	medical leave of absence	6	use sick, then annual, then LWOP	not guaranteed but will try to place in old or similar position	

Table 1. Pregnancy Leave Policies of Some Public and Private Sector Employers in Alaska

Employer	Applicable Policy	Number of Weeks Allowed	Compensation During Leave	Return Rights	Comments
PRIVATE SECTOR					
SeaAlaska	medical leave	varies	use sick, then annual, then LWOP	yes	medical leave is used for any situation where it is medically prudent for the employee to be absent, the length of leave determined between the employee and the Vice-President of Administration; temporary disability applies to extended illness or pregnancy, and a doctor's certificate is required
	or temporary disability leave	varies	LWOP	yes	
Sohio	disability leave	12-25, but generally 6	may be paid	yes	
	or personal leave of absence	varies	no pay	no	

Data collected by telephone survey conducted during the week of January 19 - 23, 1987.

APEA = Alaska public Employees' Association

IBEW = International Brotherhood of Electrical Workers

LWOP = Leave Without Pay

NEA = National Education Association

UFCW = United Food and Commercial Workers

Prepared by the House Research Agency, January 1987 (87-079.wk1)

Employment in Alaska, September 1986

Number of Employees	Employment		Number Employers		<i>Estimate:</i>
					Women Employees Age 20 through 44
0 -14	45,544	19.9%	13,453	84.1%	15,381
15-20	12,006	5.2%	698	4.4%	4,055
21-50	35,040	15.3%	1,101	6.9%	11,834
51+	136,507	59.6%	752	4.7%	46,101
					0
TOTAL	229,097	100.0%	16,004	100.0%	77,370
TOTAL 15+	183,553	80.1%	2,551	15.9%	61,989

33.77% of employees are women age 20 through 44 (1985 annual average)

Source: Department of Labor

Prepared by the House Research Agency 04-May-87 (860519-01;87-277)

# ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

---

## POSITION PAPER ON HB 155 FAMILY LEAVE

The Alaska Women's Lobby welcomes the introduction of HB 155 which would establish a statewide family leave policy.

This legislation would guarantee job security for all workers who require unpaid leave to care for their newborn or newly adopted children or to care for their seriously ill family members.

This important, pro-family legislation is long overdue. It is time the workplace changed to accommodate the changing workforce.

Statistics show that half of all mothers of children under three work outside the home and that 85% of all women in today's workforce are likely to become pregnant during their working years. The majority of mothers who work do so out of economic necessity.

The two-job family is no longer the exception, it is the norm. The old image of the statistical family of four - Mom at home with the two kids and Dad at work - has faded to invisibility. According to recent reports only 3.7% of our families still fit that traditional mold.

If we are to keep the family unit strong, parents must not be made to choose between their baby and their job. When members of a family fall seriously ill, someone must be able to take leave to care for them. Infant children, whether newborn or adopted, need a period of close parental bonding.

We are the only industrialized country (aside from South Africa) that has not faced up to what is happening to young families as they try to cope with working and raising children.

Thirteen other states\* already provide some job protection to new parents. Even these protections pale when compared to those in nations such as Sweden, West Germany and France, where workers get from 4] to 9] months of parental leave with pay of up to 90% of their salary.

Our disappointing record in supporting families and children suggests that we are one of the least child - oriented societies in the world.

Businesses that pay attention to the family concerns of their employees are already reaping rewards. Studies demonstrate that employees of such firms display less burn-out, less absenteeism, more loyalty to the company and significantly more interest in their jobs.

A survey of 400 major U.S. companies found that 65% offered up to three months unpaid leave with the guarantee of a job upon return and 46% guaranteed a comparable job. Many Alaskan public and private sector employers already provide leave for childbirth.

The legislation being considered should not cause undue hardship on small businesses. Covering only those employers with over 15 employees will exempt over 84% of Alaskan employers while at the same time providing protection to over 80% of Alaskan employees.\*\*

Family leave is not a radical idea, but it is an important step towards ensuring that families can function in today's environment. Society can no longer view the workplace and the family as two completely separate parts of an employees life.

The rise in teen suicide, pregnancies and crime should warn us that we are paying a dreadful price for not facing the needs of families early on. We are endangering both the present and the next generation.

House bill 155 will accommodate family life in the workplace, and will result in more productive workers and in healthier families.

We appreciate your consideration of this bill and urge its speedy passage.

\* Connecticut, Hawaii, Kansas, Montana, New Hampshire, Ohio, Washington, Massachusetts, California, Minnesota, Oregon, Rhode Island and Tennessee.

\*\* Alaska Department of Labor statistics 1986.

Prepared for The Alaska Women's Lobby by Sherrie Markin Goll

Original sponsors: Brown, Ulmer,  
Gruenberg, et al.

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 155 ( )  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to employment rights based on  
7 pregnancy, childbirth, and related conditions, and  
8 family leave."

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

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

11 (1) the number of single-parent households and two-parent house-  
12 holds in which the single parent or both parents work outside the home is  
13 increasing significantly;

14 (2) it is important to the development of a child and to the  
15 family unit that parents be able to participate in early childrearing and  
16 the care of a child who has a serious health condition;

17 (3) the lack of employment opportunities to accommodate working  
18 parents can force individuals to choose between job security and parenting;  
19 and

20 (4) it is important for the family unit that a person be able to  
21 care for a parent or spouse who has a serious health condition.

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

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

25 (2) to entitle employees to take reasonable leave for the birth  
26 or adoption of a child and for the care of a child, spouse, or parent who  
27 has a serious health condition; and

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

29 \* Sec. 2. AS 14.20.590 is amended by adding a new subsection to read:

1 (b) Notwithstanding any provision of AS 14.20.550 - 14.20.610 to  
2 the contrary, a negotiations agreement that conflicts with AS 18.80.-  
3 225, concerning benefits and leave for pregnancy, childbirth, related  
4 medical conditions, and family leave, is void unless the agreement  
5 provides benefits comparable to those provided by AS 18.80.225.

6 \* Sec. 3. AS 18.80 is amended by adding a new section to read:

7 Sec. 18.80.225. EMPLOYMENT BENEFITS AND PRIVILEGES FOR FAMILY  
8 CARE. (a) An employer shall grant an employee whose health is  
9 affected by pregnancy, childbirth, or a related medical condition the  
10 same employment benefits and privileges that the employer grants to  
11 other employees with similar ability to work who are not so affected,  
12 including allowing the employee to take disability or sick leave or  
13 other accrued leave that the employer makes available to temporarily  
14 disabled employees.

15 (b) An employee is eligible to take family leave if the employee  
16 has been employed by the employer for at least 35 hours a week for at  
17 least six consecutive months or for at least 17 1/2 hours a week for  
18 at least 12 consecutive months immediately preceding the leave. An  
19 employer shall permit an eligible employee to take family leave for a  
20 total of 18 workweeks during any 24-month period. The leave may be  
21 unpaid leave. However, the employee may choose to substitute, or the  
22 employer may require the employee to substitute, accrued paid vacation  
23 leave, sick leave, personal leave, or other paid leave during this  
24 period. If the employee is entitled to a longer period of time under  
25 (a) of this section, then the longer period applies. An eligible  
26 employee is entitled to take family leave

27 (1) because of pregnancy, the birth of a child of the  
28 employee, or the placement of a child, other than the employee's  
29 stepchild, with the employee for adoption, in which case the

1 entitlement to leave expires at the end of the 12-month period begin-  
2 ning after the date of the birth or placement; an employer may require  
3 that an employee using family leave under this paragraph take the  
4 leave in a single block of time; and

5 (2) in order to care for the employee's child, spouse, or  
6 parent who has a serious health condition; in this paragraph, "child"  
7 includes the employee's biological, adopted, or foster child, step-  
8 child, legal ward, or a child to whom the employee stands in loco  
9 parentis.

10 (c) If the necessity for leave under this section is foreseeable  
11 based on an expected birth or adoption or on planned medical treatment  
12 or supervision, the employee shall provide the employer with prior  
13 notice of the expected need for leave in a manner that is reasonable  
14 and practicable. If the necessity for leave under this section is  
15 foreseeable based on planned medical treatment or supervision, the  
16 employee shall also make a reasonable effort to schedule the treatment  
17 or supervision so as not to disrupt unduly the operations of the  
18 employer, subject to the approval of the health care provider of the  
19 employee's child, spouse, or parent.

20 (d) Notwithstanding (b) of this section, if a parent or child of  
21 two employees employed by the same employer has a serious health  
22 condition, the employer is not required to grant family leave to both  
23 employees simultaneously.

24 (e) During the time that an employee is on leave under this  
25 section, the employer shall maintain coverage under any group health  
26 plan at the level and under the conditions that coverage would have  
27 been provided if the employee had been employed continuously from the  
28 date the leave began to the date the employee returns from leave under  
29 (f) of this section. However, the employer may require that the

1 employee pay all of the costs for maintaining health insurance cover-  
2 age during a period of unpaid leave.

3 (f) Unless the employer's business circumstances have changed to  
4 make it impossible or unreasonable, when an employee returns from  
5 leave under (a) or (b) of this section, the employer shall restore the  
6 employee

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

9 (2) to a substantially similar position with substantially  
10 similar benefits, pay, and other terms and conditions of employment.

11 (g) An employer may not refuse to temporarily transfer a preg-  
12 nant employee to an existing, funded, unfilled position that is part  
13 of the same administrative division in which the employee is presently  
14 working and that is less strenuous or less hazardous if the employee  
15 requests the transfer, the transfer is recommended by a licensed  
16 health care provider, the employee is qualified and immediately able  
17 to perform the job, and the transfer will not subject the employer to  
18 legal liability. An employer shall compensate an employee who re-  
19 ceives a transfer under this subsection at a rate at least equal to  
20 the lesser of the rate, as adjusted by changes to compensation that  
21 apply generally to the work force, at which

22 (1) the employee was compensated immediately before re-  
23 questing the transfer; or

24 (2) the position into which the employee transfers is  
25 compensated.

26 (h) This section does not affect any other provision of law  
27 relating to sex discrimination, pregnancy, or parenthood.

28 (i) This section applies to an employer only if the employer  
29 employed at least 15 employees for each working day during 20

1 consecutive workweeks in either the current or the preceding calendar  
2 year. However, this section does not apply to an employer's small  
3 business facility if the total number of employees employed within 50  
4 road miles of the small business facility, including those employed at  
5 the facility during the 20 workweeks was fewer than 15.

6 (j) An employer may refuse to grant an employee family leave  
7 under (b) of this section if the employer establishes that

8 (1) the salary received by the employee places the employee  
9 in the top 10 percent of all employees in facilities of the employer  
10 covered by this section; and

11 (2) the employee has skills, knowledge, or experience that  
12 cannot be provided satisfactorily by other employees of the employer  
13 during the period of the proposed leave and that are necessary to the  
14 employer during that time to meet a business necessity.

15 (k) A violation of this section constitutes unlawful discrimina-  
16 tion under this chapter. However, a violation of this section is not  
17 punishable under AS 18.80.270.

18 (l) The provisions of this section are subject to collective  
19 bargaining. However, a collective bargaining contract is void unless  
20 it contains terms giving employees benefits comparable to those pro-  
21 vided by this section.

22 (m) In this section,

23 (1) "child" means an individual who is

24 (A) under 18 years of age; or

25 (B) 18 years of age or older and incapable of self-  
26 care because of mental or physical disability;

27 (2) "health care provider" has the meaning given in AS 18.-  
28 23.070;

29 (3) "parent" means a biological or adoptive parent, a

1 parent-in-law, or a stepparent;

2 (4) "serious health condition" means an illness, injury,  
3 impairment, or physical or mental condition that involves

4 (A) inpatient care in a hospital, hospice, or residen-  
5 tial health care facility; or

6 (B) continuing treatment or continuing supervision by  
7 a health care provider;

8 (5) "small business facility" means a facility of an em-  
9 ployer at which fewer than 15 employees were employed for each working  
10 day during 20 consecutive workweeks in the current or preceding calen-  
11 dar year.

12 \* Sec. 4. AS 23.40.200 is amended by adding a new subsection to read:

13 (g) Notwithstanding any provision of AS 23.40.070 - 23.40.260 to  
14 the contrary, an agreement between the state and an employee bargain-  
15 ing organization representing employees of the state that conflicts  
16 with AS 18.80.225, concerning benefits and leave for pregnancy, child-  
17 birth, related medical conditions, and family leave, is void unless  
18 the agreement provides benefits comparable to those provided by  
19 AS 18.80.225.

20 \* Sec. 5. AS 39.20.225(b)(4) is amended to read:

21 (4) Pregnancy and childbirth is a medical reason for a  
22 female officer or employee to take personal leave. [A FEMALE OFFICER  
23 OR EMPLOYEE, OTHERWISE QUALIFIED FOR A LEAVE OF ABSENCE, IS ENTITLED  
24 TO TAKE A MAXIMUM OF NINE WEEKS LEAVE IMMEDIATELY PRECEDING AND FOL-  
25 LOWING CHILDBIRTH. IF THE OFFICER'S OR EMPLOYEE'S ACCRUED PERSONAL  
26 LEAVE IS INSUFFICIENT FOR THIS PURPOSE, THE OFFICER OR EMPLOYEE IS  
27 ENTITLED TO TAKE LEAVE WITHOUT PAY FOR THE BALANCE OF THE NINE-WEEK  
28 PERIOD.]

29 \* Sec. 6. AS 39.20 is amended by adding a new section to read:

1           Sec. 39.20.305. FAMILY LEAVE. (a) An officer or employee who  
2 is otherwise qualified to take leave of absence may take family leave  
3 for a total of 18 workweeks during any 24-month period. An officer or  
4 employee taking leave under this section shall use accrued personal  
5 leave. After exhausting accrued personal leave, the officer or em-  
6 ployee may take leave without pay for the balance of the 18-week  
7 period. If the employee is entitled to a longer period of time under  
8 AS 18.80.225(a), then the longer period applies. An eligible employee  
9 is entitled to take family leave

10           (1) because of pregnancy, the birth of a child of the  
11 employee, or the placement of a child, other than the employee's  
12 stepchild, with the employee for adoption, in which case the entitle-  
13 ment to leave expires at the end of the 12-month period beginning  
14 after the date of the birth or placement; the department or agency may  
15 require that an employee using family leave under this paragraph take  
16 the leave in a single block of time; and

17           (2) in order to care for the employee's child, spouse, or  
18 parent who has a serious health condition; in this paragraph, "child"  
19 includes the employee's biological, adopted, or foster child, step-  
20 child, legal ward, or a child to whom the employee stands in loco  
21 parentis.

22           (b) If the necessity for family leave under (a) of this section  
23 is foreseeable based on an expected birth or adoption or on planned  
24 medical treatment or supervision, the employee shall provide the  
25 employee's department or agency head with prior notice of the expected  
26 need for leave in a manner that is reasonable and practicable. If the  
27 necessity for leave under this section is foreseeable based on planned  
28 medical treatment or supervision, the employee shall also make a  
29 reasonable effort to schedule the treatment or supervision so as not

1 to disrupt unduly the operations of the state department or agency,  
2 subject to the approval of the health care provider of the employee's  
3 child, spouse, or parent.

4 (c) Notwithstanding (a) of this section, if a parent or child of  
5 two employees employed by the state has a serious health condition,  
6 the state is not required to grant family leave to both employees  
7 simultaneously.

8 (d) A state department or agency may refuse to grant an employee  
9 family leave under (a) of this section if the department or agency  
10 establishes that

11 (1) the salary received by the employee places the employee  
12 in the top 10 percent of employees within that department or agency;  
13 and

14 (2) the employee has skills, knowledge, or experience that  
15 cannot be provided satisfactorily by other state employees during the  
16 period of the proposed leave and that are necessary to the department  
17 or agency during that time to meet a business necessity.

18 (e) In this section, "child," "health care provider," "parent,"  
19 and "serious health condition" have the meanings given in AS 18.80.-  
20 225.

21 \* Sec. 7. Notwithstanding AS 14.20.590(b), enacted by sec. 2 of this  
22 Act, AS 18.80.225, enacted by sec. 3 of this Act, and AS 23.40.200(g),  
23 enacted by sec. 4 of this Act, a collective bargaining agreement in effect  
24 on the effective date of this Act that contains terms that do not comply  
25 with AS 18.80.225 remains valid until the agreement expires. However, the  
26 contract may not be extended by agreement or renewed unless it complies  
27 with AS 18.80.225 and AS 14.20.590(b) or AS 23.40.200(g), if applicable.

1 to disrupt unduly the operations of the state department or agency,  
2 subject to the approval of the health care provider of the employee's  
3 child, spouse, or parent.

4 (c) Notwithstanding (a) of this section, if a parent or child of  
5 two employees employed by the state has a serious health condition,  
6 the state is not required to grant family leave to both employees  
7 simultaneously.

8 (d) A state department or agency may refuse to grant an employee  
9 family leave under (a) of this section if the department or agency  
10 establishes that

11 (1) the salary received by the employee places the employee  
12 in the top 10 percent of employees within that department or agency;  
13 and

14 (2) the employee has skills, knowledge, or experience that  
15 cannot be provided satisfactorily by other state employees during the  
16 period of the proposed leave and that are necessary to the department  
17 or agency during that time to meet a business necessity.

18 (e) In this section, "child," "health care provider," "parent,"  
19 and "serious health condition" have the meanings given in AS 18.80.-  
20 225.

21 \* Sec. 7. Notwithstanding AS 14.20.590(b), enacted by sec. 2 of this  
22 Act, AS 18.80.225, enacted by sec. 3 of this Act, and AS 23.40.200(g),  
23 enacted by sec. 4 of this Act, a collective bargaining agreement in effect  
24 on the effective date of this Act that contains terms that do not comply  
25 with AS 18.80.225 remains valid until the agreement expires. However, the  
26 contract may not be extended by agreement or renewed unless it complies  
27 with AS 18.80.225 and AS 14.20.590(b) or AS 23.40.200(g), if applicable.  
28  
29

6-0525E ✓  
Cramer  
4/3/89

Original sponsors: Brown, Ulmer,  
Gruenberg, et al.

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 155 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to employment rights based on preg-  
7 nancy, childbirth, and related conditions, and family  
8 leave."

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

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

11 (1) the number of single-parent households and two-parent house-  
12 holds in which the single parent or both parents work outside the home is  
13 increasing significantly;

14 (2) it is important to the development of a child and to the  
15 family unit that parents be able to participate in early childrearing and  
16 the care of a child who has a serious health condition;

17 (3) the lack of employment opportunities to accommodate working  
18 parents can force individuals to choose between job security and parenting;  
19 and

20 (4) it is important for the family unit that a person be able to  
21 care for a parent or spouse who has a serious health condition.

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

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

25 (2) to entitle employees to take reasonable leave for the birth  
26 or adoption of a child and for the care of a child, spouse, or parent who  
27 has a serious health condition; and

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

29 \* Sec. 2. AS 14.20.590 is amended by adding a new subsection to read:

1 (b) Notwithstanding any provision of AS 14.20.550 - 14.20.610 to  
2 the contrary, a negotiations agreement between an employer subject to  
3 AS 23.10.500 - 23.10.550 and an employee bargaining organization that  
4 conflicts with AS 23.10.500 - 23.10.550, concerning benefits and leave  
5 for pregnancy, childbirth, related medical conditions, and family  
6 leave, is void unless the agreement provides benefits comparable to  
7 those provided by AS 23.10.500 - 23.10.550.

8 \* Sec. 3. AS 23.10 is amended by adding a new section to read:

9 ARTICLE 7. PREGNANCY, CHILDBIRTH, AND FAMILY LEAVE.

10 Sec. 23.10.500. EMPLOYMENT BENEFITS AND PRIVILEGES FOR FAMILY  
11 CARE. (a) An employer shall grant an employee whose health is af-  
12 fected by pregnancy, childbirth, or a related medical condition the  
13 same employment benefits and privileges that the employer grants to  
14 other employees with similar ability to work who are not so affected,  
15 including allowing the employee to take disability or sick leave or  
16 other accrued leave that the employer makes available to temporarily  
17 disabled employees.

18 (b) An employee is eligible to take family leave if the employee  
19 has been employed by the employer for at least 35 hours a week for at  
20 least six consecutive months or for at least 17 1/2 hours a week for  
21 at least 12 consecutive months immediately preceding the leave. An  
22 employer shall permit an eligible employee to take family leave for a  
23 total of 18 workweeks during any 24-month period. The leave may be  
24 unpaid leave. However, the employæ may choose to substitute, or the  
25 employer may require the employee to substitute, accrued paid vacation  
26 leave, sick leave, personal leave, or other paid leave during this  
27 period. If the employee is entitled to a longer period of time under  
28 (a) of this section, then the longer period applies. An eligible  
29 employee is entitled to take family leave

1 (1) because of pregnancy, the birth of a child of the  
2 employee, or the placement of a child, other than the employee's  
3 stepchild, with the employee for adoption, in which case the entitle-  
4 ment to leave expires at the end of the 12-month period beginning  
5 after the date of the birth or placement; an employer may require that  
6 an employee using family leave under this paragraph take the leave in  
7 a single block of time; and

8 (2) in order to care for the employee's child, spouse, or  
9 parent who has a serious health condition; in this paragraph, "child"  
10 includes the employee's biological, adopted, or foster child, step-  
11 child, legal ward, or a child to whom the employee stands in loco  
12 parentis.

13 (c) Notwithstanding (b) of this section, if a parent or child of  
14 two employees employed by the same employer has a serious health  
15 condition, the employer is not required to grant family leave to both  
16 employees simultaneously.

17 (d) During the time that an employee is on leave under this  
18 section, the employer shall maintain coverage under any group health  
19 plan at the level and under the conditions that coverage would have  
20 been provided if the employee had been employed continuously from the  
21 date the leave began to the date the employee returns from leave under  
22 (e) of this section. However, the employer may require that the  
23 employee pay all of the costs for maintaining health insurance cover-  
24 age during a period of unpaid leave.

25 (e) Unless the employer's business circumstances have changed to  
26 make it impossible or unreasonable, when an employee returns from  
27 leave under this section, the employer shall restore the employee

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

1 (2) to a substantially similar position with substantially  
2 similar benefits, pay, and other terms and conditions of employment.

3 (f) This section does not apply to an employer's small business  
4 facility if the total number of employees employed within 50 road  
5 miles of the small business facility, including those employed at the  
6 facility, was fewer than 21 during the 20 consecutive workweeks in  
7 which the employer employed at least 21 employees at all business  
8 facilities.

9 (g) An employer may refuse to grant an employee family leave  
10 under (b) of this section if the employer establishes that

11 (1) the salary received by the employee places the employee  
12 in the top 10 percent of all employees in facilities of the employer  
13 covered by this section; and

14 (2) the employee has skills, knowledge, or experience that  
15 cannot be provided satisfactorily by other employees of the employer  
16 during the period of the proposed leave and that are necessary to the  
17 employer during that time to meet a business necessity.

18 Sec. 23.10.510. EMPLOYEE NOTICE. If the necessity for leave  
19 under AS 23.10.500 is foreseeable based on an expected birth or adop-  
20 tion or on planned medical treatment or supervision, the employee  
21 shall provide the employer with prior notice of the expected need for  
22 leave in a manner that is reasonable and practicable. If the necessi-  
23 ty for leave under that section is foreseeable based on planned medi-  
24 cal treatment or supervision, the employee shall also make a reason-  
25 able effort to schedule the treatment or supervision so as not to  
26 disrupt unduly the operations of the employer, subject to the approval  
27 of the health care provider of the employee's child, spouse, or par-  
28 ent.

29 Sec. 23.10.520. EMPLOYEE TRANSFER. An employer may not refuse

1 to temporarily transfer a pregnant employee to an existing, funded,  
2 unfilled position that is part of the same administrative division in  
3 which the employee is presently working and that is less strenuous or  
4 less hazardous if the employee requests the transfer, the transfer is  
5 recommended by a licensed health care provider, the employee is quali-  
6 fied and immediately able to perform the job, and the transfer will  
7 not subject the employer to legal liability. An employer shall com-  
8 pensate an employee who receives a transfer under this section at a  
9 rate at least equal to the lesser of the rate, as adjusted by changes  
10 to compensation that apply generally to the work force, at which

11 (1) the employee was compensated immediately before re-  
12 questing the transfer; or

13 (2) the position into which the employee transfers is  
14 compensated.

15 Sec. 23.10.530. APPLICATION TO OTHER LAWS. (a) The provisions  
16 of AS 23.10.500 - 23.10.550 do not affect any other provision of law  
17 relating to sex discrimination, pregnancy, or parenthood.

18 (b) The provisions of AS 23.10.500 - 23.10.550 are subject to  
19 collective bargaining. However, a collective bargaining contract is  
20 void unless it contains terms giving employees benefits comparable to  
21 those provided by AS 23.10.500 - 23.10.550.

22 Sec. 23.10.540. INVESTIGATION AND CONCILIATION OF COMPLAINTS.

23 (a) A person aggrieved by a denial of a right or privilege granted by  
24 AS 23.10.500 - 23.10.540 may file a complaint with the department.

25 (b) The department shall informally, promptly, and impartially  
26 investigate the matters set out in a filed complaint. If the investi-  
27 gator determines that the allegations are supported by substantial  
28 evidence, the investigator shall immediately try to eliminate the  
29 denial of rights or privileges by conference, conciliation, and

1 persuasion.

2 Sec. 23.10.550. DEFINITIONS. In AS 23.10.500 - 23.10.550,

3 (1) "child" means an individual who is

4 (A) under 18 years of age; or

5 (B) 18 years of age or older and incapable of self-  
6 care because of mental or physical disability;

7 (2) "employer" means a person, including the state and a  
8 political subdivision of the state, who employed at least 21 employees  
9 in the state for each working day during 20 consecutive workweeks in  
10 either the current or the preceding calendar year;

11 (3) "health care provider" has the meaning given in AS 18.-  
12 23.070;

13 (4) "parent" means a biological or adoptive parent, a  
14 parent-in-law, or a stepparent;

15 (5) "serious health condition" means an illness, injury,  
16 impairment, or physical or mental condition that involves

17 (A) inpatient care in a hospital, hospice, or residen-  
18 tial health care facility; or

19 (B) continuing treatment or continuing supervision by  
20 a health care provider;

21 (6) "small business facility" means a facility of an em-  
22 ployer at which fewer than 21 employees were employed for each working  
23 day during 20 consecutive workweeks in the current or preceding calen-  
24 dar year;

25 (7) "state" includes the University of Alaska and the  
26 executive, legislative, and judicial branches of state government  
27 including public and quasi-public corporations and authorities estab-  
28 lished by law.

29 \* Sec. 4. AS 23.40.200 is amended by adding a new subsection to read: