

HOUSE BILL No. 4777

May 28, 2013, Introduced by Reps. Abed, Knezek, Darany, Yanez, Lamonte, Brinks, Schor, Singh, Robinson, Hovey-Wright, Kivela, Geiss, Brown and Oakes and referred to the Committee on Commerce.

A bill to provide for family military leave from employment for the spouse of an individual deployed in active military service under certain conditions; to prohibit retaliation for use of family military leave; and to prescribe remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "family military leave act".

3 Sec. 3. As used in this act:

4 (a) "Active duty" does not include active duty for training.

5 (b) "Armed forces of the United States" means all components,
6 including reserve and national guard components, of the United
7 States army, navy, air force, marine corps, and coast guard.

8 (c) "Benefits" means employment benefits, other than salary or

1 wages, that the employer normally provides or makes available to
2 employees, such as medical insurance, disability insurance, life
3 insurance, pension plan, or retirement plan.

4 (d) "Employee" means an individual who works an average of 20
5 or more hours per week for an employer under an express or implied
6 contract of hire, but does not include an independent contractor.

7 (e) "Employer" means an individual, partnership, corporation,
8 association, or other business entity that employs 15 or more
9 employees, and includes the state and a unit of local government.

10 (f) "Family military leave" means time off from work while the
11 employee's spouse is deployed or on leave from deployment in the
12 armed forces of the United States during a period of military
13 conflict.

14 (g) "Period of military conflict" means a period of war
15 declared by the United States congress, declared by executive order
16 of the president, or in which a member of a reserve component of
17 the armed forces is ordered to active duty pursuant to either 10
18 USC 12301 and 10 USC 12302 or title 32 of the United States Code.

19 Sec. 5. An employer shall allow an employee up to the lesser
20 of 20 days or 160 hours of family military leave per deployment
21 during a period of military conflict if all of the following
22 conditions are met:

23 (a) The employee has been employed by the employer for at
24 least 12 months and for at least 1,250 hours during the immediately
25 preceding 12 months.

26 (b) The employee is the spouse of an individual who is a
27 member of the armed forces of the United States or a member of 1 of

1 the reserve components of the armed forces of the United States who
2 is called into active duty in the armed forces of the United
3 States.

4 (c) Within 5 days after the employee receives official notice
5 of an impending call to active duty or of a leave from deployment,
6 the employee gives notice to the employer that the employee intends
7 to take family military leave.

8 Sec. 7. The employer may require an employee requesting family
9 military leave to provide certification from the proper military
10 authority to verify the employee's eligibility.

11 Sec. 9. (1) An employer shall continue to provide existing
12 benefits to the employee during family military leave, and the
13 employee is responsible for the same proportion of the cost of
14 those benefits as the employee paid before the leave period. The
15 employer is not required to pay salary or wages to the employee
16 while on family military leave.

17 (2) After use of the employee's family military leave, the
18 employer shall restore the employee to his or her position or to a
19 position with at least equivalent seniority, benefits, pay, and
20 other terms and conditions of employment.

21 Sec. 11. (1) An employer shall not interfere with, restrain,
22 or deny the exercise or attempted exercise of a right provided
23 under this act.

24 (2) An employer shall not discharge, fine, suspend, expel,
25 discipline, or discriminate against an employee with respect to any
26 term or condition of employment because of the employee's actual or
27 potential exercise, or support for another employee's exercise, of

1 any right under this act. This subsection does not prevent an
2 employer from taking employment action that is independent of the
3 exercise of a right under this act.

4 (3) An employer shall not deprive an employee who uses family
5 military leave of any employment benefit that accrued before the
6 date the family military leave begins.

7 Sec. 13. This act does not affect an employer's obligation to
8 comply with any collective bargaining agreement or employee benefit
9 plan that provides greater leave rights to employees than provided
10 under this act.

11 Sec. 15. (1) An employer shall not require an employee to
12 waive rights under this act.

13 (2) An employee's rights under this act cannot be waived or
14 diminished under a term in a collective bargaining agreement or
15 employee benefit plan that takes effect after the effective date of
16 this act.

17 Sec. 17. An individual aggrieved by a violation of this act
18 may bring an action in the circuit court to enjoin the violation or
19 for any other relief necessary to secure a right under this act.