

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 497

Introduced by White, 8

Read first time January 17, 2007

Committee: Government, Military and Veterans Affairs

A BILL

- 1 FOR AN ACT relating to labor and employment; to adopt the Family
- 2 Military Leave Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as
2 the Family Military Leave Act.

3 Sec. 2. For purposes of the Family Military Leave Act:

4 (1) Employee means any person who may be permitted,
5 required, or directed by an employer in consideration of direct or
6 indirect gain or profit to engage in any employment. Employee does
7 include an independent contractor. Employee includes an employee
8 of a covered employer who has been employed by the same employer
9 for at least twelve months and has been employed for at least one
10 thousand two hundred fifty hours of service during the twelve-month
11 period immediately preceding the commencement of the leave;

12 (2) Employee benefits means all benefits, other than
13 salary and wages, provided or made available to employees by
14 an employer and includes group life insurance, health insurance,
15 disability insurance, and pensions, regardless of whether benefits
16 are provided by a policy or practice of an employer;

17 (3) Employer means (a) any person, partnership,
18 corporation, association, or other business entity; and (b) the
19 State of Nebraska and political subdivisions; and

20 (4) Family military leave means leave requested by an
21 employee who is the spouse or parent of a person called to military
22 service lasting longer than one hundred eighty days with the State
23 or United States pursuant to the orders of the Governor or the
24 President of the United States.

25 Sec. 3. (1) Any employer that employs between fifteen

1 and fifty employees shall provide up to fifteen days of unpaid
2 family military leave to an employee during the time federal or
3 state deployment orders are in effect, subject to the conditions
4 set forth in this section. Family military leave granted under the
5 Family Military Leave Act may consist of unpaid leave.

6 (2) An employer that employs more than fifty employees
7 shall provide up to thirty days of unpaid family military leave to
8 an employee during the time federal or state deployment orders are
9 in effect, subject to the conditions set forth in this section.
10 Family military leave granted under the act may consist of unpaid
11 leave.

12 (3) The employee shall give at least fourteen days notice
13 of the intended date upon which the family military leave will
14 commence if leave will consist of five or more consecutive work
15 days. Where able, the employee shall consult with the employer to
16 schedule the leave so as to not unduly disrupt the operations of
17 the employer. Employees taking military family leave for less than
18 five consecutive days shall give the employer advanced notice as is
19 practicable. The employer may require certification from the proper
20 military authority to verify the employee's eligibility for the
21 family military leave requested.

22 Sec. 4. (1) Any employee who exercises the right to
23 family military leave under the Family Military Leave Act, upon
24 expiration of the leave, shall be entitled to be restored by
25 the employer to the position held by the employee when the

1 leave commenced or to a position with equivalent seniority
2 status, employee benefits, pay, and other terms and conditions
3 of employment. This section does not apply if the employer proves
4 that the employee was not restored because of conditions unrelated
5 to the employee's exercise of rights under the act.

6 (2) During any family military leave taken under the act,
7 the employer shall make it possible for employees to continue their
8 benefits at the employee's expense. The employer and employee may
9 negotiate for the employer to maintain benefits at the employer's
10 expense for the duration of the leave.

11 Sec. 5. (1) Taking family military leave under the Family
12 Military Leave Act shall not result in the loss of any employee
13 benefit accrued before the date on which the leave commenced.

14 (2) Nothing in the act shall be construed to affect
15 an employer's obligation to comply with any collective bargaining
16 agreement or employee benefit plan that provides greater leave
17 rights to employees than the rights provided under the act.

18 (3) The family military leave rights provided under the
19 act shall not be diminished by any collective bargaining agreement
20 or employee benefit plan.

21 (4) Nothing in the act shall be construed to affect
22 or diminish the contract rights or seniority status of any other
23 employee of any employer covered under the act.

24 Sec. 6. (1) An employer shall not interfere with,
25 restrain, or deny the exercise or the attempt to exercise any

1 right provided under the Family Military Leave Act.

2 (2) An employer shall not discharge, fine, suspend,
3 expel, discipline, or in any other manner discriminate against any
4 employee who exercises any right provided under the act.

5 (3) An employer shall not discharge, fine, suspend,
6 expel, discipline, or in any other manner discriminate against any
7 employee for opposing any practice made unlawful by the act.

8 Sec. 7. A civil action may be brought in the district
9 court having jurisdiction by an employee to enforce the Family
10 Military Leave Act. The circuit court may enjoin any act or
11 practice that violates or may violate the act and may order any
12 other equitable relief that is necessary and appropriate to redress
13 the violation or to enforce the act.