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SENATE BILL 449

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO DOMESTIC AFFAIRS; ENACTING THE FAMILY LEAVE ACT;
PROVIDING FOR FAMILY LEAVE FOR EMPLOYEES UNDER CERTAIN
CIRCUMSTANCES; REQUIRING EMPLOYERS TO GRANT FAMILY LEAVE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Family Leave Act".

Section 2. DEFINITIONS.--As used in the Family Leave Act:

A. "child" means a biological, adopted or foster
child, a legal ward or a child of a person standing in loco
parentis who is:

- (1) under the age of eighteen years; or
- (2) eighteen years of age or older and

incapable of self-care because of a mental or physical
disability;

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1 B. "grandparent" means a parent of a parent of an
2 employee;

3 C. "parent" means a biological parent of an
4 employee or an individual who stood in loco parentis to an
5 employee when the employee was a child;

6 D. "parent-in-law" means a parent of the spouse of
7 an employee;

8 E. "sick leave or other paid time off" means time
9 allowed pursuant to the terms of an appropriate collective
10 bargaining agreement or employer policy, as applicable, to an
11 employee for illness, vacation or personal holiday; and

12 F. "spouse" means a husband or wife.

13 Section 3. RIGHT TO FAMILY LEAVE.--

14 A. If, pursuant to the terms of a collective
15 bargaining agreement or employer policy applicable to an
16 employee, the employee is entitled to sick leave or other paid
17 time off, then an employer shall allow an employee to use the
18 employee's choice of sick leave or other paid time off to care
19 for:

20 (1) a child of the employee with a health
21 condition that requires treatment or supervision; or

22 (2) a spouse, parent, parent-in-law or
23 grandparent of the employee who has a serious health condition
24 or an emergency condition.

25 B. An employee may not take advance leave until it

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1 has been earned.

2 C. An employee taking leave under the circumstances
3 described in this section shall comply with the terms of the
4 collective bargaining agreement or employer policy applicable
5 to the leave, except for terms relating to the choice of leave.

6 D. Use of leave other than accrued sick leave or
7 other paid time off to care for a child, spouse, parent,
8 parent-in-law or grandparent under the circumstances described
9 in this section shall be governed by the terms of the
10 appropriate collective bargaining agreement or employer policy
11 as applicable.

12 Section 3. PROHIBITION OF DISCHARGE.--An employer shall
13 not discharge, threaten to discharge, demote, suspend,
14 discipline or otherwise discriminate against an employee
15 because the employee:

16 A. has exercised, or attempted to exercise, a right
17 provided pursuant to the Family Leave Act; or

18 B. has filed a complaint, testified or assisted in
19 a proceeding pursuant to the Family Leave Act.

20 Section 4. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2005.