

JAN 23 2009

A BILL FOR AN ACT

RELATING TO FAMILY LEAVE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that over twenty-five per
2 cent of Hawaii's households contain at least one individual
3 providing informal, unpaid care to an adult aged sixty or older
4 with physical or cognitive disabilities. This percentage is
5 expected only to increase. Projections indicate that by the
6 year 2020, more than one in four individuals will be aged sixty
7 or older, and an individual's need for personal care assistance
8 due to physical, sensory, cognitive, and self-care disabilities
9 increases with age.

10 The legislature finds that the average age of family
11 caregivers is fifty-four years of age, which is well below the
12 age of retirement. Over fifty-five per cent of the family
13 caregivers are employed, and of this group, over twenty-six per
14 cent indicate that their employment is affected by their care-
15 giving responsibilities. Reduction in work hours was an oft
16 cited effect, followed by turning down promotions and taking
17 leaves of absence. Nearly all of the family caregivers surveyed
18 stated that they frequently rearrange their work schedules, and



1 over seventy-seven per cent take time off from work to deal with
2 care-giving responsibilities.

3 The legislature finds that approximately ten per cent of
4 the Hawaii workforce, or over eighty thousand employees, may
5 currently seek or need to take some form of leave to address
6 family caregiver issues.

7 The legislature further finds that while federal law
8 extends its benefits to firms with fifty or more employees,
9 these individuals must be employed for a minimum of one year.
10 This requirement blocks access to family leave for large number
11 of individuals who may be working in industries that expand or
12 contract with short-term economic circumstances or for workers
13 who may hold a number of part-time or casual hire positions.

14 The legislature further finds that Hawaii's family leave
15 law, embodied in chapter 398, Hawaii Revised Statutes, only
16 requires employment for six consecutive months but does not
17 extend to employees of firms with fewer than one hundred
18 employees. State data indicate that of the 511,508 private
19 sector employees in the year 2006, 209,731, or forty-one per
20 cent, were covered by Hawaii's family leave law, and 301,777, or
21 fifty-nine per cent, were not covered. The "gap" between
22 employers with fifty or more employees and firms with one



1 hundred or more employees may represent approximately 100,000
2 employees in Hawaii. For state government employees, those
3 categorized as "emergency hire" or "casual hire" or those
4 working less than twenty hours per week are also unable to
5 access family leave benefits.

6 The legislature further finds that in seeking to analyze
7 and develop improvements to the family leave system there is
8 inadequate utilization and needs data. There is currently no
9 requirement made of private employers to report family leave
10 data to the State.

11 The purpose of this Act is to:

12 (1) Reconcile certain differences in federal and state
13 family leave benefits by adopting the federal scope of
14 applicability for family leave, which covers employees
15 of firms with fifty or more employees, and applying
16 that scope of applicability to all employees in the
17 State who are employed by firms with fifty or more
18 employees, thereby replacing the current scope of
19 applicability, which covers employees employed by
20 firms with one hundred or more employees;



- 1 (2) Create a data collection system that is capable of
- 2 analyzing and reporting family care-giving data for
- 3 both public and private employees;
- 4 (3) Ensure that uncovered employees are captured by the
- 5 data system; and
- 6 (4) Create the basis for development of a data-driven paid
- 7 family leave system that can complement other care
- 8 giver services, especially for elder family members.

9 SECTION 2. Chapter 398, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§398- Family leave data collection system;
13 establishment. (a) There is established a family leave data
14 collection system for the purposes of:

15 (1) Ensuring that all employees covered by the benefits of
16 this chapter are informed of their rights under this
17 chapter and their names are entered into the data base
18 upon application for benefits;

19 (2) Collecting pertinent data consistent with state and
20 federal privacy statutes on the use and potential
21 demand for family leave benefits for both governmental
22 and private sector employees, including but not



1 limited to information on who and under what
2 circumstances employees are using family leave
3 benefits, the nature and duration of family members
4 needs, and the adequacy of current family leave
5 benefits;

6 (3) Providing analysis of the data to assist in the
7 development and implementation of an efficient system
8 of family leave, including potential paid family
9 leave, for employees in Hawaii; and

10 (4) Providing analysis of data to assist in the future
11 development of caregiver services for senior citizens
12 in Hawaii.

13 (b) The department shall work with the University of
14 Hawaii center on aging to create a web-based data system with
15 the following capabilities:

16 (1) The capacity for all employees seeking family leave
17 benefits under this chapter to log into and enter
18 pertinent data on the circumstances and need for
19 family leave benefits;

20 (2) The ability to secure confidential information
21 consistent with state and federal privacy statutes



1 available only in aggregate form for managers and
2 analysts of the data system;

3 (3) The ability to print out a simple form to be submitted
4 to the employer certifying that required data has been
5 entered;

6 (4) The ability of the data manager and analysts to
7 manipulate and query the data base to achieve the
8 purpose of this chapter;

9 (5) A back up paper system that can be used when computer
10 access or printing is unavailable; and

11 (6) A user-friendly format that can be translated into
12 multiple languages for employees.

13 (c) The state auditor shall be provided access to the data
14 base and shall prepare annual reports to the legislature, the
15 department, and the University of Hawaii center on aging."

16 SECTION 3. Section 398-1, Hawaii Revised Statutes, is
17 amended by amending the definition of "employer" to read as
18 follows:

19 ""Employer" means any individual or organization, including
20 the State, any of its political subdivisions, any
21 instrumentality of the State or its political subdivisions, any
22 partnership, association, trust, estate, joint stock company,



1 insurance company, or corporation, whether domestic or foreign,
2 or receiver or trustee in bankruptcy, or the legal
3 representative of a deceased person, who employs [~~one hundred~~
4 fifty or more employees for each working day during each of
5 twenty or more calendar weeks in the current or preceding
6 calendar year."

7 SECTION 4. Section 398-2, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[+] §398-2 [+] **Inapplicability.** The rights provided under
10 this chapter shall not apply to employees of an employer with
11 fewer than [~~one hundred~~] fifty employees."

12 SECTION 5. Section 398-5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+] §398-5 [+] **Notice.** In any case in which the necessity
15 for family leave is foreseeable, the employee shall provide the
16 employer with prior notice of the expected birth or adoption or
17 serious health condition in a manner that is reasonable and
18 practicable. Requests for family leave shall include evidence
19 that the employee has submitted the request and provided
20 required data in accordance with section 398-_____."

21 SECTION 6. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$ _____ or so



1 much thereof as may be necessary for fiscal year 2009-2010 and
2 the same sum or so much thereof as may be necessary for fiscal
3 year 2010-2011 for the University of Hawaii center on aging to
4 cover the estimated costs of the:

- 5 (1) Development of a web-based data system as provided by
- 6 this Act;
- 7 (2) Purchase of hardware, software, servers, and other
- 8 necessary elements of the system; and
- 9 (3) Costs of personnel required to maintain the system.

10 The sums appropriated shall be expended by the University
11 of Hawaii for the purposes of this Act.

12 SECTION 7. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 8. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:

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Report Title:

Family Leave

Description:

Establishes a new data collection system for family leave.
Extends applicability of the family leave law to employers with
50 or more employees and to certain emergency and casual hires
of the State and counties. Makes appropriation.

