
A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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

1 SECTION 1. Chapter 378, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . REPRODUCTIVE LOSS LEAVE**

5 **§378- Definitions.** As used in this part:

6 "Assisted reproduction" means a method of achieving a
7 pregnancy through artificial insemination or an embryo transfer
8 and includes gamete and embryo donation. "Assisted
9 reproduction" does not include any pregnancy achieved through
10 sexual intercourse.

11 "Employee" means any individual in the employment of an
12 employer.

13 "Employer" does not include any person, other than the
14 State or any of its political subdivisions, having fewer than
15 five employees.

16 "Failed adoption" means the dissolution or breach of an
17 adoption agreement with the birth mother or legal guardian, or



1 an adoption that is not finalized because the adoption is
2 contested by another party.

3 "Failed surrogacy" means the dissolution or breach of a
4 surrogacy agreement, or a failed embryo transfer to the
5 surrogate.

6 "Miscarriage" means a miscarriage by a person, by the
7 person's current spouse or domestic partner, or by another
8 individual if the person would have been a parent of a child
9 born as a result of the pregnancy.

10 "Reproductive loss event" means the day or, for a
11 multiple-day event, the final day of a failed adoption, a failed
12 surrogacy, a miscarriage, a stillbirth, or an unsuccessful
13 assisted reproduction.

14 "Stillbirth" means a stillbirth resulting from a person's
15 pregnancy, the pregnancy of a person's current spouse or
16 domestic partner, or another individual, if the person would
17 have been a parent of a child born as a result of the pregnancy
18 that ended in stillbirth.

19 "Unsuccessful assisted reproduction" means an unsuccessful
20 round of intrauterine insemination or an assisted reproductive
21 technology procedure.



1 **§378- Leave of absence for reproductive loss.** (a) It
2 shall be unlawful for any employer to refuse to grant a request
3 by any employee to take up to five days of reproductive loss
4 leave following a reproductive loss event; provided that:

5 (1) If an employee experiences more than one reproductive
6 loss event within a twelve-month period, the employer
7 shall not be obligated to grant a total amount of
8 reproductive loss leave time exceeding twenty days
9 within a twelve-month period;

10 (2) Each employer shall allow the days that an employee
11 takes for reproductive loss leave to be
12 nonconsecutive;

13 (3) The reproductive loss leave shall be completed within
14 three months of the reproductive loss event; provided
15 further that if, prior to or immediately following a
16 reproductive loss event, an employee is on or chooses
17 to go on leave from work pursuant to this chapter,
18 chapter 398, or any other leave entitlement under
19 state or federal law, the employee shall complete the
20 reproductive loss leave within three months of the end
21 date of the other leave; and



1 (4) The reproductive loss leave shall be taken pursuant to
2 any existing applicable leave policy of the employer;
3 provided further that if there is no existing
4 applicable leave policy, reproductive loss leave may
5 be unpaid, except that an employee may use vacation,
6 personal leave, accrued and available sick leave, or
7 compensatory time off that is otherwise available to
8 the employee.

9 (b) It shall be unlawful for any employer to:

10 (1) Retaliate against an individual, including refusing to
11 hire, discharging, demoting, fining, suspending,
12 expelling, or discriminating against, an individual
13 because of:

14 (A) An individual's exercise of the right to
15 reproductive loss leave; and

16 (B) An individual's giving information or testimony
17 as to their reproductive loss leave, or another
18 person's reproductive loss leave, in an inquiry
19 or proceeding related to rights guaranteed under
20 this section; and



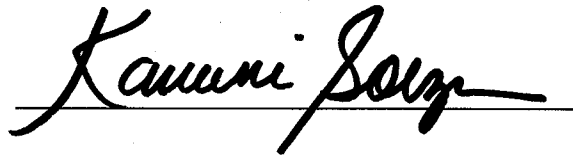
1 (2) Interfere with, restrain, or deny the exercise of, or
2 the attempt to exercise, any right provided under this
3 section.

4 (c) Each employer shall maintain the confidentiality of
5 any employee requesting leave under this section. Any
6 information provided to the employer pursuant to this section
7 shall be maintained as confidential and shall not be disclosed
8 except to internal personnel or counsel, as necessary, or as
9 required by law."

10 SECTION 2. This Act shall take effect upon its approval.

11

INTRODUCED BY:



JAN 18 2024



H.B. NO. 1791

Report Title:

Employment; Reproductive Loss Leave

Description:

Requires certain employers in the State to offer reproductive loss leave for employees.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

