

AMENDED IN ASSEMBLY APRIL 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 325**

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**Introduced by Assembly Member Bonnie Lowenthal  
(Coauthor: Assembly Member Monning)**

February 10, 2011

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An act to add Section 230.5 to the Labor Code, relating to employee rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 325, as amended, Bonnie Lowenthal. Employee's right to bereavement leave.

Existing law provides employees with the right to take time off work without discharge or discrimination for a number of reasons.

This bill would add the right to inquire about, request, and take time off for bereavement leave. The provisions of the bill would not apply to an employee who is covered by a valid collective bargaining agreement that provides for bereavement leave and other specified working conditions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 230.5 is added to the Labor Code, to
- 2 read:
- 3 230.5. (a) An employer shall not discharge, discipline, or in
- 4 any manner discriminate against an employee for inquiring about,
- 5 requesting, or taking up to four days of bereavement leave ~~off~~ upon

1 the death of a spouse, child, parent, sibling, grandparent,  
2 grandchild, or domestic partner.

3 (b) For purposes of this section, the following terms have the  
4 following meanings:

5 (1) “Child” means a biological, adopted, or foster child, a  
6 stepchild, a legal ward, a child of a domestic partner, or a child of  
7 a person standing in loco parentis. This definition of a child is  
8 applicable regardless of age or dependency status.

9 (2) “Employee” means a person employed by the employer for  
10 at least 60 days prior to the commencement of the leave.

11 (3) “Parent” has the same meaning as defined in paragraph (3)  
12 of subdivision (b) of Section 233.

13 (4) “Domestic partner” has the same meaning as defined in  
14 Section 297 of the Family Code, who is registered pursuant to Part  
15 2 (commencing with Section 298) of Division 2.5 of the Family  
16 Code.

17 (5) “Sibling” means a person related to another person by blood,  
18 adoption, or affinity through a common legal or biological parent.

19 (c) The days of bereavement leave need not be consecutive.

20 (d) The bereavement leave must be completed within 13 months  
21 of the date of death of the person listed in subdivision (a).

22 (e) The bereavement leave is to be unpaid, except that an  
23 employee may use vacation, personal leave, or compensatory time  
24 off that is otherwise available to the employee.

25 (f) The employee, if requested by the employer, shall, within  
26 30 days of *the first day* of the leave, provide documentation of the  
27 death of the person listed in subdivision (a). “Documentation”  
28 includes a death certificate, a published obituary, or written  
29 verification of death, burial, or memorial services from a mortuary,  
30 funeral home, burial society, crematorium, religious institution,  
31 or government agency.

32 (g) An employee who is discharged, disciplined, or otherwise  
33 discriminated against in terms or conditions of employment by his  
34 or her employer because the employee has inquired about,  
35 requested, or taken bereavement leave pursuant to this section is  
36 entitled to reinstatement and to recover actual damages.

37 (h) An employee who believes he or she has been discharged,  
38 disciplined, or in any way discriminated against in violation of  
39 this section may take either of the following actions:

1 (1) The employee may file a complaint with the Division of  
2 Labor Standards Enforcement in accordance with Section 98.7.

3 (2) The employee may bring a civil action for the remedies  
4 provided in subdivision (g) in a court of competent jurisdiction.  
5 If the employee prevails, the court may award the employee  
6 reasonable attorney's fees.

7 (i) The rights and remedies of this section are cumulative,  
8 nonexclusive, and in addition to any other rights and remedies  
9 afforded by contract or other provisions of law.

10 (j) This section does not apply to an employee covered by a  
11 valid collective bargaining agreement if the agreement expressly  
12 provides for bereavement leave and the wages, hours of work, and  
13 working conditions of the employees, and if the agreement provides  
14 premium wage rates for all overtime hours worked, where  
15 applicable, and a regular hourly rate of pay for those employees  
16 of not less than 30 percent more than the state minimum wage.