

AMENDED IN SENATE JUNE 14, 2011

AMENDED IN ASSEMBLY APRIL 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 325

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

February 10, 2011

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:

1 230.5. (a) An employer shall not discharge, discipline, or in
2 any manner discriminate against an employee for inquiring about,
3 requesting, or taking up to four days of bereavement leave upon
4 the death of a spouse, child, parent, sibling, grandparent,
5 grandchild, or domestic partner.

6 (b) For purposes of this section, the following terms have the
7 following meanings:

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

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

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

16 (4) “Domestic partner” has the same meaning as defined in
17 Section 297 of the Family Code, who is registered pursuant to Part
18 2 (commencing with Section 298) of Division 2.5 of the Family
19 Code.

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

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

23 (d) The bereavement leave must be completed within ~~13~~ 3
24 months of the date of death of the person listed in subdivision (a).

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

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

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

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

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

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

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

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