

AMENDED IN SENATE JULY 5, 2011
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~~ *prohibit an employer from refusing to grant a request by any employee to take up to 3 days of* 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~~ *It is unlawful employment practice*
6 *for an employer to refuse to grant a request by any employee to*
7 *take up to three days of bereavement leave upon the death of a*
8 *spouse, child, parent, sibling, grandparent, grandchild, or domestic*
9 *partner.*

10 (b) For purposes of this section, the following terms have the
11 following meanings:

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

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

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

20 (4) “Domestic partner” has the same meaning as defined in
21 Section 297 of the Family Code, who is registered pursuant to Part
22 2 (commencing with Section 298) of Division 2.5 of the Family
23 Code.

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

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

27 (d) The bereavement leave must be completed within 3 months
28 of the date of death of the person listed in subdivision (a).

29 (e) *The bereavement leave shall be taken pursuant to any*
30 *existing bereavement leave policy. If there is no existing*
31 *bereavement leave policy, the bereavement leave is to be unpaid,*
32 *except that an employee may use vacation, personal leave, or*
33 *compensatory time off that is otherwise available to the employee.*

34 (f) The employee, if requested by the employer, shall, within
35 30 days of the first day of the leave, provide documentation of the
36 death of the person listed in subdivision (a). “Documentation”
37 includes a death certificate, a published obituary, or written
38 verification of death, burial, or memorial services from a mortuary,

1 funeral home, burial society, crematorium, religious institution,
2 or government agency.

3 (g) An employee who is discharged, disciplined, or otherwise
4 discriminated against in terms or conditions of employment by his
5 or her employer because the employee has ~~inquired about,~~
6 ~~requested, or taken~~ *exercised his or her right to* bereavement leave
7 pursuant to this section is entitled to reinstatement and to recover
8 actual damages.

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

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

14 (2) The employee may bring a civil action for the remedies
15 provided in subdivision (g) in a court of competent jurisdiction.
16 If the employee prevails, the court may award the employee
17 reasonable attorney's fees.

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

21 (j) This section does not apply to an employee covered by a
22 valid collective bargaining agreement if the agreement expressly
23 provides for bereavement leave and the wages, hours of work, and
24 working conditions of the employees, and if the agreement provides
25 premium wage rates for all overtime hours worked, where
26 applicable, and a regular hourly rate of pay for those employees
27 of not less than 30 percent more than the state minimum wage.

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