

AMENDED IN SENATE AUGUST 16, 2011

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**

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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 prohibit an employer from refusing to grant a request by any employee to take up to 3 days of bereavement leave *or to interfere with or restrain an employee from doing so*. 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) It is unlawful employment practice for an employer  
4 to refuse to grant a request by any employee to take up to three  
5 days of bereavement leave upon the death of a spouse, child, parent,  
6 sibling, grandparent, grandchild, or domestic partner.

7 (b) *It is an unlawful employment practice for an employer to*  
8 *interfere with or restrain the exercise or the attempted exercise of*  
9 *the right of an employee to take leave pursuant to subdivision (a).*

10 ~~(b)~~

11 (c) For purposes of this section, the following terms have the  
12 following meanings:

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

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

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

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

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

27 ~~(e)~~

28 (d) The days of bereavement leave need not be consecutive.

29 ~~(d)~~

30 (e) The bereavement leave must be completed within 3 months  
31 of the date of death of the person listed in subdivision (a).

32 ~~(e)~~

33 (f) The bereavement leave shall be taken pursuant to any existing  
34 bereavement leave policy. If there is no existing bereavement leave  
35 policy, the bereavement leave is to be unpaid, except that an  
36 employee may use vacation, personal leave, or compensatory time  
37 off that is otherwise available to the employee.

38 ~~(f)~~

1 (g) The employee, if requested by the employer, shall, within  
2 30 days of the first day of the leave, provide documentation of the  
3 death of the person listed in subdivision (a). “Documentation”  
4 includes a death certificate, a published obituary, or written  
5 verification of death, burial, or memorial services from a mortuary,  
6 funeral home, burial society, crematorium, religious institution,  
7 or government agency.

8 ~~(g)~~

9 (h) An employee who is discharged, disciplined, or otherwise  
10 discriminated against in terms or conditions of employment by his  
11 or her employer because the employee has exercised *or attempted*  
12 *to exercise* his or her right to bereavement leave pursuant to this  
13 section is entitled to reinstatement and to recover actual damages.

14 ~~(h)~~

15 (i) An employee who believes he or she has been discharged,  
16 disciplined, or in any way discriminated against in violation of  
17 this section may take either of the following actions:

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

20 (2) The employee may bring a civil action for the remedies  
21 provided in subdivision (g) in a court of competent jurisdiction.  
22 If the employee prevails, the court may award the employee  
23 reasonable attorney’s fees.

24 ~~(i)~~

25 (j) The rights and remedies of this section are cumulative,  
26 nonexclusive, and in addition to any other rights and remedies  
27 afforded by contract or other provisions of law.

28 ~~(j)~~

29 (k) This section does not apply to an employee covered by a  
30 valid collective bargaining agreement if the agreement expressly  
31 provides for bereavement leave and the wages, hours of work, and  
32 working conditions of the employees, and if the agreement provides  
33 premium wage rates for all overtime hours worked, where  
34 applicable, and a regular hourly rate of pay for those employees  
35 of not less than 30 percent more than the state minimum wage.