

CHAPTER 157

LABOR AND INDUSTRY

HOUSE BILL 13-1222

BY REPRESENTATIVE(S) Peniston, Court, Fischer, Ginal, Hamner, Hullinghorst, Labuda, Lebsock, Melton, Rosenthal, Salazar, Singer, Tyler, Young, Levy, Moreno, Pabon, Ryden, Schafer, Ferrandino;
also SENATOR(S) Ulibarri, Aguilar, Carroll, Giron, Hudak, Kefalas, Todd, Guzman, Heath, Hodge, Johnston, Jones, Kerr, Newell, Nicholson, Schwartz, Steadman, Tochtrop, Morse.

AN ACT

CONCERNING THE EXPANSION OF THE GROUP OF FAMILY MEMBERS FOR WHOM COLORADO EMPLOYEES ARE ENTITLED TO TAKE LEAVE FROM WORK UNDER THE FEDERAL "FAMILY AND MEDICAL LEAVE ACT OF 1993".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 2 to article 13.3 of title 8 as follows:

**PART 2
FAMILY AND MEDICAL LEAVE ELIGIBILITY**

8-13.3-201. Short title. THIS PART 2 SHALL BE KNOWN AND MAY BE CITED AS THE "FAMILY CARE ACT".

8-13.3-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "CIVIL UNION" HAS THE SAME MEANING AS SET FORTH IN SECTION 14-15-103 (1), C.R.S.
- (2) "EMPLOYEE" MEANS A PERSON EMPLOYED BY AN EMPLOYER AND WHO IS ELIGIBLE FOR FMLA LEAVE.
- (3) "EMPLOYER" HAS THE SAME MEANING AS SET FORTH IN THE FMLA.
- (4) "FMLA" MEANS THE FEDERAL "FAMILY AND MEDICAL LEAVE ACT OF 1993",

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PUB.L. 103-3, AS AMENDED, 29 U.S.C. SEC. 2601, ET SEQ.

(5) "FMLA LEAVE" MEANS LEAVE FROM WORK AND ALL BENEFITS AUTHORIZED BY THE FMLA.

8-13.3-203. Family and medical leave - state requirements. (1) IN ADDITION TO THE LEAVE TO WHICH AN EMPLOYEE IS ENTITLED UNDER THE FMLA, AN EMPLOYEE IN THIS STATE IS ENTITLED TO FMLA LEAVE TO CARE FOR A PERSON WHO HAS A SERIOUS HEALTH CONDITION, AS THAT TERM IS DEFINED IN THE FMLA, IF THE PERSON:

(a) IS THE EMPLOYEE'S PARTNER IN A CIVIL UNION, AS DEFINED IN SECTION 14-15-103 (5), C.R.S.; OR

(b) IS THE EMPLOYEE'S DOMESTIC PARTNER AND:

(I) HAS REGISTERED THE DOMESTIC PARTNERSHIP WITH THE MUNICIPALITY IN WHICH THE PERSON RESIDES OR WITH THE STATE, IF APPLICABLE; OR

(II) IS RECOGNIZED BY THE EMPLOYER AS THE EMPLOYEE'S DOMESTIC PARTNER.

(2)(a) FOR PURPOSES OF CONFIRMING AN EMPLOYEE'S RELATIONSHIP TO A PERSON DESCRIBED IN SUBSECTION (1) OF THIS SECTION FOR WHOM THE EMPLOYEE IS REQUESTING FMLA LEAVE, THE EMPLOYER MAY REQUIRE THE EMPLOYEE TO PROVIDE REASONABLE DOCUMENTATION OR A WRITTEN STATEMENT OF FAMILY RELATIONSHIP, IN ACCORDANCE WITH THE FMLA.

(b) AN EMPLOYER MAY REQUIRE AN EMPLOYEE SEEKING FMLA LEAVE FOR A PERSON DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO SUBMIT THE SAME CERTIFICATION AS THE EMPLOYER MAY REQUIRE UNDER THE FMLA.

(3) FMLA LEAVE TAKEN BY AN EMPLOYEE PURSUANT TO THIS SECTION RUNS CONCURRENTLY WITH LEAVE TAKEN UNDER THE FMLA, AND THIS SECTION DOES NOT:

(a) INCREASE THE TOTAL AMOUNT OF LEAVE TO WHICH AN EMPLOYEE IS ENTITLED DURING A TWELVE-MONTH PERIOD UNDER THE FMLA, THIS SECTION, OR BOTH; AND

(b) PRECLUDE AN EMPLOYER FROM GRANTING AN EMPLOYEE AN AMOUNT OF LEAVE THAT EXCEEDS THE TOTAL AMOUNT OF LEAVE TO WHICH THE EMPLOYEE IS ENTITLED DURING A TWELVE-MONTH PERIOD UNDER THE FMLA.

8-13.3-204. Enforcement. IF AN EMPLOYER DENIES AN EMPLOYEE IN THIS STATE FMLA LEAVE TO CARE FOR A PERSON DESCRIBED IN SECTION 8-13.3-203 WHO IS NOT A PERSON FOR WHOM THE EMPLOYEE WOULD BE ENTITLED TO LEAVE UNDER THE FMLA, OR INTERFERES WITH AN EMPLOYEE'S EXERCISE OF OR ATTEMPT TO EXERCISE HIS OR HER RIGHT TO FMLA LEAVE FOR PERSONS DESCRIBED IN SECTION 8-13.3-203, THE EMPLOYER IS SUBJECT TO DAMAGES AND EQUITABLE RELIEF AS SPECIFIED IN THE FMLA. AN AGGRIEVED EMPLOYEE MAY BRING AN ACTION IN STATE COURT AGAINST THE EMPLOYER TO RECOVER DAMAGES OR EQUITABLE RELIEF.

8-13.3-205. Repeal of part. THIS PART 2 IS REPEALED IF THE UNITED STATES CONGRESS ENACTS AND THE PRESIDENT SIGNS FEDERAL LEGISLATION AMENDING THE FMLA TO PERMIT EMPLOYEES TO USE FMLA LEAVE FOR ALL PERSONS DESCRIBED IN SECTION 8-13.3-203. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL NOTIFY THE REVISOR OF STATUTES, IN WRITING, IF THE CONDITION SPECIFIED IN THIS SECTION OCCURS.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 3, 2013