
SENATE BILL No. 230

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-13.

Synopsis: Family military leave. Provides that certain employees are entitled to up to 30 days leave from employment for family military leave when the spouse or a child of the employee is called to active duty in the armed forces of the United States or the National Guard.

Effective: July 1, 2007.

Simpson

January 11, 2007, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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SENATE BILL No. 230



A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

1 SECTION 1. IC 22-2-13 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]:

4 **Chapter 13. Family Military Leave**

5 **Sec. 1. As used in this chapter, "active duty" has the meaning**
6 **set forth in IC 5-9-4-2.**

7 **Sec. 2. As used in this chapter, "employee" means an individual**
8 **who:**

9 (1) **has been employed for at least twelve (12) months by an**
10 **employer from whom the individual has requested family**
11 **military leave under this chapter; and**

12 (2) **worked at least one thousand two hundred fifty (1,250)**
13 **hours for the employer described in subdivision (1) in the**
14 **fifty-two (52) weeks immediately preceding the week that the**
15 **individual begins a period of family military leave under this**
16 **chapter.**

17 **Sec. 3. As used in this chapter, "employee benefits" means**



1 benefits, other than salary or wages, provided or made available to
2 an employee by an employer, including group life insurance, health
3 insurance, disability insurance, or a pension, or any combination
4 of these benefits, regardless of the manner in which the benefits are
5 provided or made available.

6 Sec. 4. As used in this chapter, "employer" means:

- 7 (1) an individual;
- 8 (2) a partnership;
- 9 (3) an association;
- 10 (4) a limited liability company;
- 11 (5) a corporation;
- 12 (6) a business trust;
- 13 (7) the state; or
- 14 (8) a municipal corporation (as defined in IC 36-1-2-10).

15 Sec. 5. As used in this chapter, "family military leave" means an
16 absence from employment requested by an employee who is the
17 spouse or parent of an individual called to active duty.

18 Sec. 6. (a) An employer that employs:

- 19 (1) at least fifteen (15) but not more than fifty (50) employees
20 shall provide up to fifteen (15) days; and
- 21 (2) more than fifty (50) employees shall provide up to thirty
22 (30) days;

23 of family military leave to an employee who is the spouse or the
24 parent of an individual called to active duty during the time federal
25 or state deployment orders are in effect.

26 (b) If the spouse or the child of the employee who has been
27 granted family military leave has the term of active duty extended,
28 the employee is entitled to another period of family military leave
29 for each extension of the term of active duty.

30 Sec. 7. (a) If an employee intends to take five (5) or more
31 consecutive work days of family military leave, the employee must
32 give at least fourteen (14) days advance notice to the employee's
33 employer of the following:

- 34 (1) The date on which the employee intends to begin family
35 military leave.
- 36 (2) The expected duration of the family military leave.

37 (b) If the employee intends to take family military leave for less
38 than five (5) consecutive work days, the employee shall give the
39 employer as much advance notice as practicable.

40 Sec. 8. If an employee takes family military leave under this
41 chapter, the employee's employer may require the employee to
42 provide certification from the proper military authority to verify

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1 the employee's eligibility for the family military leave. If required,
2 the employee shall provide the employer with the certification not
3 later than ten (10) days after the employee returns to work.

4 **Sec. 9. An employee is not entitled to family military leave as**
5 **provided by this chapter unless the employee has exhausted all**
6 **accrued:**

- 7 (1) vacation;
- 8 (2) personal;
- 9 (3) compensatory; and
- 10 (4) other;

11 leave granted to the employee by the employer, except sick or
12 disability leave.

13 **Sec. 10. This chapter does not require that salary or wages be**
14 **paid to an employee on family military leave unless the salary or**
15 **wages are paid under any of the following:**

- 16 (1) An agreement or contract between the employer and the
- 17 employee or the employee's representative.
- 18 (2) A policy of the employer.

19 **Sec. 11. This chapter does not prohibit an employee from taking**
20 **leave granted under any of the following:**

- 21 (1) An agreement or contract between the employer and the
- 22 employee or the employee's representative.
- 23 (2) A policy of the employer.
- 24 (3) Another law.

25 **Sec. 12. (a) This section does not apply if an employer can prove**
26 **that an employee was not restored to a position as provided in**
27 **subsection (b) because of conditions unrelated to the employee's**
28 **exercise of rights under this chapter.**

29 **(b) If an employee takes family military leave in compliance**
30 **with this chapter and returns to work, the employee's employer**
31 **shall immediately do one (1) of the following:**

- 32 (1) Return the employee to the position of employment that
- 33 the employee had before the employee took the family
- 34 military leave, if the employer has not filled or eliminated the
- 35 employee's previous position.
- 36 (2) Place the employee in another position of employment that
- 37 provides compensation, employee benefits, working hours,
- 38 working shifts, and other terms and conditions equivalent to
- 39 the position of employment the employee had before the
- 40 employee took the family military leave, if the employer has
- 41 filled the employee's previous position.

42 **Sec. 13. Except as provided in:**

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- 1 (1) an agreement or contract between the employer and the
 - 2 employee or the employee's representative;
 - 3 (2) a policy of the employer; or
 - 4 (3) section 14 of this chapter;
- 5 an employee who is on family military leave is not entitled to
- 6 compensation, additional seniority, or other benefits the employee
- 7 would be entitled to if the employee were available for work.

8 **Sec. 14. (a)** During the time an employee is on family military

9 leave, the employer shall continue to provide employee benefits to

10 the employee at the employee's expense. The employer and

11 employee may negotiate for the employer to maintain employee

12 benefits at the employer's expense for the duration of the family

13 military leave.

14 (b) Taking family military leave may not result in loss of an

15 employee benefit accrued before the date the leave begins.

16 (c) This chapter shall not be construed to affect or diminish the

17 contract rights or seniority status of another employee of an

18 employer covered under this chapter.

19 (d) The family military leave rights provided under this chapter

20 may not be diminished by:

- 21 (1) an agreement or contract between the employer and the
- 22 employee or the employee's representative;
- 23 (2) a policy of the employer; or
- 24 (3) an employee benefit plan.

25 **Sec. 15.** An employer and employee may agree to alternative

26 employment conditions or terms during the time the employee is on

27 family military leave. An agreement under this section does not

28 limit an employee's right to family military leave.

29 **Sec. 16. (a)** An employer shall not:

- 30 (1) interfere with;
- 31 (2) restrain; or
- 32 (3) deny;

33 the exercise of or the attempt to exercise a right provided under

34 this chapter. The prohibitions in this section include discharging,

35 fining, suspending, disciplining, or discriminating against an

36 employee who takes family military leave.

37 (b) An employer may:

- 38 (1) discharge;
- 39 (2) suspend; or
- 40 (3) discipline;

41 an employee for refusing to accommodate family military leave

42 granted to another employee under this chapter.

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1 **Sec. 17. (a) An employee who is denied family military leave by**
 2 **the employee's employer may bring a civil action against the**
 3 **employer to enforce the rights of the employee under this chapter.**
 4 **(b) If an employer is found to have denied family military leave**
 5 **to an employee entitled to family military leave, the court may do**
 6 **the following:**
 7 **(1) Award:**
 8 **(A) actual damages; and**
 9 **(B) court costs and reasonable attorney's fees;**
 10 **to the prevailing employee.**
 11 **(2) Enjoin further violation of this chapter.**
 12 **SECTION 2. [EFFECTIVE JULY 1, 2007] (a) IC 22-2-13, as**
 13 **added by this act, does not excuse noncompliance with a provision**
 14 **of a collective bargaining agreement or another employee benefit**
 15 **program or plan in effect on July 1, 2007, that is not in substantial**
 16 **conflict with IC 22-2-13, as added by this act. IC 22-2-13, as added**
 17 **by this act, does not justify reduction by an employer of employee**
 18 **benefits provided by the employer that exceed the benefits required**
 19 **by IC 22-2-13, as added by this act.**
 20 **(b) This SECTION expires July 1, 2008.**

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