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An Act To Clarify Intermittent Leave under the Family Medical Leave Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §843, sub-§4-B is enacted to read:

4-B. Reduced leave schedule. "Reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Sec. 2. 26 MRSA §844, sub-§1, as amended by PL 1997, c. 515, §1, is further amended to read:

1. Family medical leave entitlement. Every employee who has been employed by the same employer for 12 consecutive months is entitled to up to 10 ~~consecutive~~ work weeks of family medical leave in any 2 years unless employed at a permanent work site with fewer than 15 employees. The following conditions apply to family medical leave granted under this subchapter:

A. The employee must give at least 30 days' notice of the intended date upon which family medical leave will commence and terminate, unless prevented by medical emergency from giving that notice;

B. The employer may require certification from a physician to verify the amount of leave requested by the employee, except that an employee who in good faith relies on treatment by prayer or spiritual means, in accordance with the tenets and practice of a recognized church or religious denomination, may submit certification from an accredited practitioner of those healing methods; and

C. The employer and employee may negotiate for more or less leave, but both parties must agree.

Sec. 3. 26 MRSA §844, sub-§3 is enacted to read:

3. Leave taken intermittently or on reduced leave schedule. Intermittent or reduced leave schedule family medical leave may be taken subject to the following limitations:

A. Leave for a reason described in section 843, subsection 4, paragraph B or C may not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer agree otherwise. Subject to subsection 1, paragraphs A and B, leave for a reason described in section 843, subsection 4, paragraph A, D or E may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph may not result in a reduction in the total amount of leave to which the employee is entitled under subsection 1 beyond the amount of leave actually taken.

B. If an employee requests intermittent leave, or leave on a reduced leave schedule, for a reason described in section 843, subsection 4, paragraph A, D or E that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that:

(1) Has equivalent pay and benefits; and

(2) Better accommodates recurring periods of leave than the regular employment position of the employee.

PUBLIC Law, Chapter 233 LD 1261, item 1, 123rd Maine State Legislature
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Effective September 20, 2007