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SB-654 Unlawful employment practice: parental leave. (2015-2016)

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ENROLLED SEPTEMBER 06, 2016
PASSED IN SENATE AUGUST 31, 2016
PASSED IN ASSEMBLY AUGUST 30, 2016
AMENDED IN ASSEMBLY AUGUST 18, 2016
AMENDED IN ASSEMBLY AUGUST 11, 2016
AMENDED IN ASSEMBLY SEPTEMBER 02, 2015
AMENDED IN SENATE JUNE 02, 2015
AMENDED IN SENATE APRIL 21, 2015

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL

NO. 654

Introduced by Senator Jackson
(Coauthors: Senators Hancock, Leyva, and Wolk)
(Coauthors: Assembly Members Atkins, Bonilla, Burke, Campos, Cristina Garcia, Gonzalez, and Lopez)

February 27, 2015

An act to add Section 12945.6 to the Government Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 654, Jackson. Unlawful employment practice: parental leave.

Existing law prohibits an employer from refusing to allow a female employee disabled by pregnancy, childbirth, or a related medical condition to take a leave for a reasonable time of up to 4 months before returning to work. Existing law also prohibits an employer from refusing to maintain and pay for coverage under a group health plan for an employee who takes that leave, as specified.

This bill would prohibit an employer, as defined, from refusing, as specified, to allow an employee with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period, to take up to 6 weeks of parental leave to bond with a new child within one year of the child's birth, adoption, or foster care

placement. The bill would also prohibit an employer from refusing to maintain and pay for coverage under a group health plan for an employee who takes this leave.

The provisions of the bill would become operative on January 1, 2018.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be referred to, as the New Parent Leave Act.

SEC. 2. Section 12945.6 is added to the Government Code, to read:

12945.6. (a) It shall be an unlawful employment practice for an employer to do either of the following:

(1) Refuse to allow an employee with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period, upon request, to take up to six weeks of parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement. If, on or before the commencement of this parental leave, the employer does not provide a guarantee of employment in the same or a comparable position upon the termination of the leave, the employer shall be deemed to have refused to allow the leave. The employee shall be entitled to utilize accrued vacation pay, paid sick time, other accrued paid time off, or other paid or unpaid time off negotiated with the employer, during the period of parental leave.

(2) Refuse to maintain and pay for coverage for an eligible employee who takes parental leave pursuant to this section under a group health plan, as defined in Section 5000(b)(1) of the Internal Revenue Code of 1986, for the duration of the leave, not to exceed six weeks over the course of a 12-month period, commencing on the date that the parental leave commences, at the level and under the conditions that coverage would have been provided if the employee had continued to work in his or her position for the duration of the leave.

(b) An employee is entitled to take, in addition to the leave provided pursuant to this section, leave provided pursuant to Section 12945 if the employee is otherwise qualified for that leave.

(c) This section does not apply to an employee subject to both Section 12945.2 and the federal Family and Medical Leave Act of 1993.

(d) In any case in which two employees who are entitled to leave under this section for the same birth, adoption, or foster care placement are employed by the same employer, the employer is not required, but may elect, to grant simultaneous leave to both employees.

(e) The basic minimum duration of the leave shall be two weeks. However, an employer may grant requests for additional occasions of leave lasting less than two weeks.

(f) Parental leave taken pursuant to this section shall run concurrently to parental leave taken as described in Section 44977.5 of the Education Code.

(g) For purposes of this section, "employer" means either of the following:

(1) A person who directly employs, within 75 miles of the worksite where an employee is employed, 20 or more persons to perform services for a wage or salary.

(2) The state, and any political or civil subdivision of the state, and cities, except for a school district, county office of education, or a community college district.

(h) This section shall become operative on January 1, 2018.