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Chapter No. 342

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SENATE BILL NO. 2084

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2084

AN ACT TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO AUTHORIZE STATE EMPLOYEES TO USE EARNED MAJOR MEDICAL LEAVE FOR ADOPTION OR FOSTER CARE PLACEMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-3-95, Mississippi Code of 1972, is amended as follows:

25-3-95. (1) All employees and appointed officers of the State of Mississippi, except employees of the public universities who do not contribute to the Mississippi Public Employees' Retirement System or the State Institutions of Higher Learning Optional Retirement Program, shall accrue credits for major medical leave as follows:

Continuous Service	Accrual Rate (Monthly)	Accrual Rate (Annually)
1 month to 3 years	8 hours per month	12 days per year
37 months to 8 years	7 hours per month	10.5 days per year
97 months to 15 years	6 hours per month	9 days per year
Over 15 years	5 hours per month	7.5 days per year

Faculty members employed by the eight (8) public universities on a nine-month contract shall accrue credit for major medical leave as follows:

Continuous Service	Accrual Rate (Per Month)	Accrual Rate (Per Academic Year)
1 month to 3 years	13-1/3 hours per month	15 days per academic year
37 months to 8 years	14-1/5 hours per month	16 days per academic year
97 months to 15 years	15-2/5 hours per month	17 days per academic year
Over 15 years	16 hours per month	18 days per academic year

Part-time employees shall accrue major medical leave on a pro rata basis. There shall be no maximum limit to major medical leave accumulation. All unused major medical leave shall be counted as creditable service for the purposes of the retirement system as provided in Sections 25-11-103 and 25-13-5.

(2) (a) Major medical leave may be used for the illness or injury of an employee or member of the employee's immediate family as defined in subsection (3) of this section, only after the employee has used one (1) day of accrued personal or compensatory leave for each absence due to illness, or leave without pay if the employee has no accrued personal or compensatory leave; provided that faculty members employed by the eight (8) public universities

on a nine-month basis may use major medical leave for the first day of absence due to illness. However, major medical leave may be used, without prior use of personal leave, to cover regularly scheduled visits to a doctor's office or a hospital for the continuing treatment of a chronic disease, as certified in advance by a physician. For the purposes of this section, "physician" means a doctor of medicine, osteopathy, dental medicine, podiatry or chiropractic. For each absence due to illness of thirty-two (32) consecutive working hours (combined personal leave and major medical leave) major medical leave shall be authorized only when certified by their attending physician.

(b) When an employee's absence is due to a work-related injury for which the employee is receiving temporary disability benefits under Section 71-3-17(b) or 71-3-21, the injured employee shall not use accrued personal and/or medical leave and receive workers' compensation benefits simultaneously if the combined receipt of both benefits results in the employee being paid, while absent due to the work-related injury, a total amount that exceeds one hundred percent (100%) of his wages earned in state employment at the time of injury. In such cases, the injured employee may use only as much of his accrued personal and/or medical leave as necessary, which may be fewer than eight (8) hours of accrued personal and/or major medical leave in a day, to constitute the difference between the amount of temporary disability workers' compensation benefits received and one hundred

percent (100%) of his wages earned at the time of injury in state employment. It is the intent of the Legislature that no state employee who is absent and disabled from work due to a work-related injury shall receive more than one hundred percent (100%) of his wages earned in state employment at the time of injury through the use of accrued personal and/or medical leave combined with temporary disability benefits under the Workers' Compensation Law. The procedure for implementing this paragraph (b) shall be as directed by the applicable appointing authority. The receipt or payment of benefits in compliance with this paragraph (b) shall be considered the employee's exclusive remedy against the employer in accordance with Section 71-3-9.

(3) An employee may use up to three (3) days of earned major medical leave for each occurrence of death in the immediate family requiring the employee's absence from work. No qualifying time or use of personal leave will be required prior to use of major medical leave for this purpose. For the purpose of this subsection (3), the immediate family is defined as spouse, parent, stepparent, sibling, child, stepchild, grandchild, grandparent, son- or daughter-in-law, mother- or father-in-law or brother- or sister-in-law. Child means a biological, adopted or foster child, or a child for whom the individual stands or stood in loco parentis.

(4) Employees and appointed officers of the State of Mississippi having unused, accumulated sick leave or annual leave

earned prior to July 1, 1984, shall be credited with major medical leave and personal leave as follows: All unused annual leave shall be credited as personal leave.

Unused sick leave shall be divided between major medical leave and personal leave at rates determined by the employee's sick leave balance on June 30, 1984. The rates of conversion shall be as follows:

Sick Leave Balance as of June 30, 1984	Percentage Converted to Personal Leave	Percentage Converted to Major Medical Leave
1 - 200 hours	20%	80%
201 - 400 hours	25%	75%
401 - 600 hours	30%	70%
601 or more hours	35%	65%

(5) Upon retirement from active employment each faculty member of the state-supported public universities who is employed on a nine-month basis shall receive credit and be paid for not more than thirty (30) days of unused major medical leave for service as a state employee. Unused major medical leave in excess of thirty (30) days shall be counted as creditable service for the purposes of the retirement system as provided in Sections 25-11-103 and 25-13-5.

(6) Any officer of the Mississippi Highway Safety Patrol who is injured by wound or accident in the line of duty shall not be

required to use earned major medical leave during the period of recovery from such injury.

(7) For the purpose of Sections 25-3-91 through 25-3-99, the earned major medical leave of each employee shall be credited monthly after the completion of each calendar month, and the appointing authority shall not increase the amount of major medical leave to an employee's credit. It shall be unlawful for an appointing authority to grant major medical leave in an amount greater than was earned and accumulated by the officer or employee.

(8) Any employee may donate a portion of his or her earned personal leave or major medical leave to another employee who is suffering from a catastrophic injury or illness, as defined in Section 25-3-91, or to another employee who has a member of his or her immediate family who is suffering from a catastrophic injury or illness, in accordance with the following:

(a) The employee donating the leave (the "donor employee") shall designate the employee who is to receive the leave (the "recipient employee") and the amount of earned personal leave and major medical leave that is to be donated, and shall notify the donor employee's appointing authority or supervisor of his or her designation. The donor employee's appointing authority or supervisor then shall notify the recipient employee's appointing authority or supervisor of the amount of leave that has been donated by the donor employee to the recipient employee.

(b) The maximum amount of earned personal leave that an employee may donate to any other employee may not exceed a number of days that would leave the donor employee with fewer than seven (7) days of personal leave left, and the maximum amount of earned major medical leave that an employee may donate to any other employee may not exceed fifty percent (50%) of the earned major medical leave of the donor employee. All donated leave shall be in increments of not less than twenty-four (24) hours.

(c) An employee must have exhausted all of his or her earned personal leave and major medical leave before he or she will be eligible to receive any leave donated by another employee.

(d) Before an employee may receive donated leave, he or she must provide his or her appointing authority or supervisor with a physician's statement that states the beginning date of the catastrophic injury or illness, a description of the injury or illness, and a prognosis for recovery and the anticipated date that the recipient employee will be able to return to work.

(e) If an employee is aggrieved by the decision of his or her appointing authority that the employee is not eligible to receive donated leave because the injury or illness of the employee or member of the employee's immediate family is not, in the appointing authority's determination, a catastrophic injury or illness, the employee may appeal the decision to the employee appeals board.

(f) Beginning on March 25, 2003, the maximum period of time that an employee may use donated leave without resuming work at his or her place of employment is ninety (90) days, which commences on the first day that the recipient employee uses donated leave. Donated leave that is not used because a recipient employee has used the maximum amount of donated leave authorized under this paragraph shall be returned to the donor employees in the manner provided under paragraph (g) of this subsection.

(g) If the total amount of leave that is donated to any employee is not used by the recipient employee, the donated leave shall be returned to the donor employees on a pro rata basis, based on the ratio of the number of days of leave donated by each donor employee to the total number of days of leave donated by all donor employees.

(h) The failure of any appointing authority or supervisor of any employee to properly deduct an employee's donation of leave to another employee from the donor employee's earned personal leave or major medical leave shall constitute just cause for the dismissal of the appointing authority or supervisor.

(i) No person through the use of coercion, threats or intimidation shall require or attempt to require any employee to donate his or her leave to another employee. Any person who alleges a violation of this paragraph shall report the violation to the executive head of the agency by whom he or she is employed or, if the alleged violator is the executive head of the agency,

then the employee shall report the violation to the State Personnel Board. Any person found to have violated this paragraph shall be subject to removal from office or termination of employment.

(j) No employee can donate leave after tendering notice of separation for any reason or after termination.

(k) Recipient employees of agencies with more than five hundred (500) employees as of March 25, 2003, may receive donated leave only from donor employees within the same agency. A recipient employee in an agency with five hundred (500) or fewer employees as of March 25, 2003, may receive donated leave from any donor employee.

(l) In order for an employee to be eligible to receive donated leave, the employee must:

(i) Have been employed for a total of at least twelve (12) months by the employer on the date on which the leave is donated; and

(ii) Have been employed for at least one thousand two hundred fifty (1,250) hours of service with such employer during the previous twelve-month period from the date on which the leave is donated.

(m) Donated leave shall not be used in lieu of disability retirement.

(n) For the purposes of this subsection, "immediate family" means spouse, parent, stepparent, sibling, child or stepchild.

(9) An employee may use up to six (6) weeks of earned major medical leave for the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one (1) year of placement.

SECTION 2. This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE SENATE
February 6, 2014



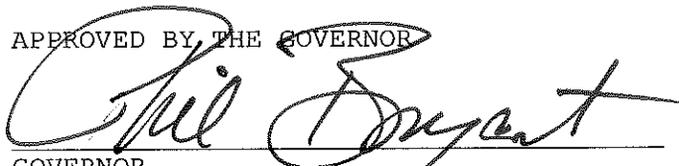
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 6, 2014



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR
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