

1 HOUSE BILL NO. 9
2 INTRODUCED BY STOLTZ, BRADLEY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE MATERNITY
5 LEAVE TO PUBLIC AND PRIVATE EMPLOYEES."

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 Section 1. Definitions. (1) "Commissioner" means the
9 commissioner of labor and industry.

10 (2) "Employer" means any public or private employer.

11 Section 2. Denial of maternity leave unlawful. (1) It
12 shall be unlawful for an employer, by himself or his agent,

13 (a) to terminate a woman's employment because of her
14 pregnancy, or

15 (b) to refuse to grant to the employee a reasonable
16 leave of absence for such pregnancy, or

17 (c) to deny to the employee, who is disabled as a
18 result of pregnancy, any compensation to which she is
19 entitled as a result of the accumulation of disability or
20 leave benefits accrued pursuant to plans maintained by her
21 employer.

22 (2) Upon signifying her intent to return at the end of
23 her leave of absence, such employee shall be reinstated to
24 her original job or to an equivalent position with
25 equivalent pay and accumulated seniority, retirement, fringe

1 benefits, and other service credits unless, in the case of a
2 private employer, the employer's circumstances have so
3 changed as to make it impossible or unreasonable to do so.

4 (3) The provisions of this section shall not apply to:

5 (a) termination of employment where the employee is
6 thereupon entitled to benefits under the terms or conditions
7 of any bona fide retirement or pension plan or collective
8 bargaining agreement between the employer and a bona fide
9 labor organization,

10 (b) operation of the terms or conditions of any bona
11 fide retirement or pension plan,

12 (c) operation of the terms or conditions of any bona
13 fide group or employee insurance plan, or

14 (d) operation of any bona fide apprenticeship system
15 or plan.

16 Section 3. Complaint--how filed. A person claiming to
17 be aggrieved by a violation of section 2 of this act may
18 make, sign, and file a verified complaint with the
19 commissioner of labor and industry which shall state the
20 circumstances of the violation and the particulars thereof
21 and shall contain such other information as may be required
22 by the commissioner. In addition, the commissioner whenever
23 he has reason to believe that section 2 of this act has been
24 or is being violated, may issue a complaint.

25 If, upon all the evidence, the commissioner finds that

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1 a respondent has engaged in a violation of section 2 of this
 2 act, he shall state his findings of fact and shall order the
 3 respondent to reinstate the complainant if she so desires
 4 and to pay to the complainant the damages resulting from the
 5 violation. If, upon all the evidence, the commissioner
 6 finds that the respondent has not engaged in a violation of
 7 section 2 of this act, he shall state his findings of fact
 8 and shall dismiss the complaint.

9 Section 4. Enforcement. The commissioner or his
 10 authorized representatives may enter and inspect such
 11 places, question such employees, and investigate such facts,
 12 conditions, or matters as they consider appropriate, to
 13 determine whether any person has violated any provision of
 14 this act or any regulation issued hereunder or which may aid
 15 in the enforcement of the provisions of this act.

16 The commissioner or his authorized representatives may
 17 administer oaths and examine witnesses under oath, issue
 18 subpoenas, compel the attendance of witnesses, and the
 19 production of papers, books, accounts, records, payrolls,
 20 documents, and testimony, and take depositions and
 21 affidavits in any proceeding before the commissioner.

22 Section 5. Regulations. The commissioner shall make
 23 and revise administrative regulations to carry out the
 24 purposes of this act. Rulemaking under this act shall
 25 comply with the provisions of the Montana Administrative

1 Procedure Act.

2 Section 1. Individual action. Nothing in this act
 3 shall preclude an individual from prosecuting a private
 4 action in the district court alleging violation of the
 5 provisions of this act or any other act.

-End-

Approved by Committee
on Labor & Employment
Relations

HOUSE BILL NO. 9

INTRODUCED BY STOLTZ, BRADLEY, KIMBLE, HUENNEKENS

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(a) to terminate a woman's employment because of her
pregnancy, or

(b) to refuse to grant to the employee a reasonable
leave of absence for such pregnancy, or

(c) to deny to the employee, who is disabled as a
result of pregnancy, any compensation to which she is
entitled as a result of the accumulation of disability or
leave benefits accrued pursuant to plans maintained by her
employer.

(D) TO RETALIATE AGAINST ANY EMPLOYEE WHO FILES A
COMPLAINT WITH THE COMMISSIONER UNDER THE PROVISIONS OF THIS
ACT, OR

(E) TO REQUIRE THAT AN EMPLOYEE TAKE A MANDATORY

MATERNITY LEAVE FOR AN UNREASONABLE LENGTH OF TIME.

(2) Upon signifying her intent to return at the end of
her leave of absence, such employee shall be reinstated to
her original job or to an equivalent position with
equivalent pay and accumulated seniority, retirement, fringe
benefits, and other service credits unless, in the case of a
private employer, the employer's circumstances have so
changed as to make it impossible or unreasonable to do so.

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labor organization;~~

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or plan;~~

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be aggrieved by a violation of section 2 of this act may
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commissioner of labor and industry which shall state the
circumstances of the violation and the particulars thereof

1 and shall contain such other information as may be required
 2 by the commissioner. In addition, the commissioner whenever
 3 he has reason to believe that section 2 of this act has been
 4 or is being violated, may issue a complaint. WITHIN SIXTY
 5 (60) DAYS OF THE RECEIPT OF A COMPLAINT THE COMMISSIONER
 6 SHALL STATE HIS FINDINGS OF FACT AND DECISION.

7 If, upon all the evidence, the commissioner finds that
 8 a respondent has engaged in a violation of section 2 of this
 9 act, he shall state his findings of fact and shall order the
 10 respondent to reinstate the complainant if she so desires
 11 and to pay to the complainant the damages resulting from the
 12 violation. If, upon all the evidence, the commissioner
 13 finds that the respondent has not engaged in a violation of
 14 section 2 of this act, he shall state his findings of fact
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 19 conditions, or matters as they consider appropriate, to
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 21 this act or any regulation issued hereunder or which may aid
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(c) to deny to the employee, who is disabled as a result of pregnancy, any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by her employer.

(D) TO RETALIATE AGAINST ANY EMPLOYEE WHO FILES A COMPLAINT WITH THE COMMISSIONER UNDER THE PROVISIONS OF THIS ACT, OR

(E) TO REQUIRE THAT AN EMPLOYEE TAKE A MANDATORY MATERNITY LEAVE FOR AN UNREASONABLE LENGTH OF TIME.

(2) Upon signifying her intent to return at the end of her leave of absence, such employee shall be reinstated to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other service credits unless, in the case of a private employer, the employer's circumstances have so changed as to make it impossible or unreasonable to do so.

~~(3) The provisions of this section shall not apply to: (a) termination of employment where the employee is thereupon entitled to benefits under the terms or conditions of any bona fide retirement or pension plan or collective bargaining agreement between the employer and a bona fide labor organization;~~

~~(b) operation of the terms or conditions of any bona fide retirement or pension plan;~~

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1 circumstances of the violation and the particulars thereof
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 3 by the commissioner. In addition, the commissioner whenever
 4 he has reason to believe that section 2 of this act has been
 5 or is being violated, may issue a complaint. WITHIN SIXTY
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 9 a respondent has engaged in a violation of section 2 of this
 10 act, he shall state his findings of fact and shall order the
 11 respondent to reinstate the complainant if she so desires
 12 and to pay to the complainant the damages resulting from the
 13 violation. If, upon all the evidence, the commissioner
 14 finds that the respondent has not engaged in a violation of
 15 section 2 of this act, he shall state his findings of fact
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17 Section 4. Enforcement. The commissioner or his
 18 authorized representatives may enter and inspect such
 19 places, question such employees, and investigate such facts,
 20 conditions, or matters as they consider appropriate, to
 21 determine whether any person has violated any provision of
 22 this act or any regulation issued hereunder or which may aid
 23 in the enforcement of the provisions of this act.

24 The commissioner or his authorized representatives may
 25 administer oaths and examine witnesses under oath, issue

1 subpoenas, compel the attendance of witnesses, and the
 2 production of papers, books, accounts, records, payrolls,
 3 documents, and testimony, and take depositions and
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 9 Procedure Act.

10 Section 6. Individual action. Nothing in this act
 11 shall preclude an individual from prosecuting a private
 12 action in the district court alleging violation of the
 13 provisions of this act or any other act.

-End-

February 8, 1975

SENATE COMMITTEE OF THE WHOLE
AMENDMENTS TO HOUSE BILL NO. 9

That House Bill No. 9 be amended as follows:

1. Amend: page 1, section 2, line 22.
Following: "employer"
Insert: ", provided that an employee whose pregnancy
is normal is not disabled within the mean-
ing of this act, but would be included
under regular medical programs"

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1. Amend: page 1, section 2, line 22.
Following: "employer"
Insert: "; provided that an employee whose pregnancy is normal is not disabled within the meaning of this act, but would be included under regular medical programs"

Corrected 2/13/75

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(c) to deny to the employee, who is disabled as a result of pregnancy, any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by her employer; PROVIDED THAT AN EMPLOYEE WHOSE PREGNANCY IS

NORMAL IS NOT DISABLED WITHIN THE MEANING OF THIS ACT, BUT WOULD BE INCLUDED UNDER REGULAR MEDICAL PROGRAMS, OR

(D) TO RETALIATE AGAINST ANY EMPLOYEE WHO FILES A

COMPLAINT WITH THE COMMISSIONER UNDER THE PROVISIONS OF THIS ACT, OR

(E) TO REQUIRE THAT AN EMPLOYEE TAKE A MANDATORY MATERNITY LEAVE FOR AN UNREASONABLE LENGTH OF TIME.

(2) Upon signifying her intent to return at the end of her leave of absence, such employee shall be reinstated to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other service credits unless, in the case of a private employer, the employer's circumstances have so changed as to make it impossible or unreasonable to do so.

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