

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 549

By: Holt of the Senate

and

West (Tammy) of the House

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9 [employment practices - Family and Medical Leave Act
10 - prohibited acts - accrued paid leave - healthcare
11 coverage - codification - effective date]
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13 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 88.1 of Title 40, unless there
16 is created a duplication in numbering, reads as follows:

17 A. For the purpose of all Oklahoma state employees, in addition
18 to the provisions that govern pregnancy, childbirth, adoption or a
19 related medical condition defined in the federal Family and Medical
20 Leave Act, each of the following shall be an unlawful employment
21 practice:

22 1. For a state employer to refuse to allow an employee disabled
23 by pregnancy, childbirth, or a related medical condition or for
24 adoption or foster care placement of a child, to take a leave for a

1 reasonable period of time not to exceed twenty (20) weeks and
2 thereafter return to work after the authorized leave at the next
3 regularly scheduled business day. The state employee shall be
4 entitled to utilize any accrued paid leave during this period of
5 time. "Reasonable period of time" means that period during which
6 the employee is disabled because of pregnancy, childbirth, or a
7 related medical condition or for adoption or foster care placement
8 of a child.

9 A state employer may require a state employee who plans to take
10 a leave pursuant to this subsection to give reasonable notice of the
11 date the leave shall commence and the estimated duration of the
12 leave;

13 2. a. for a state employer to refuse to maintain and pay for
14 coverage for an eligible employee who takes leave
15 pursuant to paragraph 1 of this subsection under a
16 group health plan, as defined in Section 5000(b)(1) of
17 the Internal Revenue Code of 1986, for the duration of
18 the leave, not to exceed twenty (20) weeks over the
19 course of a twelve-month period, commencing on the
20 date the leave taken under paragraph 1 of this
21 subsection begins, at the level and under the
22 conditions that coverage would have been provided if
23 the employee had continued in employment continuously
24 for the duration of the leave. Nothing in this

1 paragraph shall preclude a state employer from
2 maintaining and paying for coverage under a group
3 health plan beyond the twenty-week period. A state
4 employer may recover from the state employee the
5 premiums paid as required under this subsection for
6 maintaining coverage for the state employee under the
7 group health plan if both of the following conditions
8 occur:

9 (1) the state employee fails to return from leave
10 after the period of leave to which the employee
11 is entitled has expired, and

12 (2) the state employee's failure to return from leave
13 is for a reason other than one of the following:

14 (a) the employee taking leave under the federal
15 Family and Medical Leave Act, or

16 (b) other circumstance beyond the control of the
17 employee,

18 b. Any employment agreement shall govern with respect to
19 the continued receipt by an eligible employee of the
20 health care coverage specified in subparagraph a of
21 paragraph 2 of this subsection;

22 3. a. for a state employer to refuse to provide reasonable
23 accommodation for a state employee for a condition
24 related to pregnancy, childbirth or for adoption or

1 foster care placement of a child or a related medical
2 condition, if requested, with the advice of a health
3 care provider,

4 b. for a state employer who has a policy or practice
5 authorizing the transfer of temporarily disabled
6 employees to less strenuous or hazardous positions for
7 the duration of the disability to refuse to transfer a
8 pregnant employee who so requests,

9 c. for a state employer to refuse to temporarily transfer
10 a pregnant employee to a less strenuous or hazardous
11 position temporarily or for the duration of the
12 pregnancy if requested, with the advice of a
13 physician, where that transfer can be reasonably
14 accommodated. However, no employer shall be required
15 by this subsection to create additional employment
16 that the employer would not otherwise have created,
17 nor shall the employer be required to discharge any
18 employee, transfer any employee with more seniority or
19 promote any employee who is not qualified to perform
20 the job; and

21 4. For a state employer to interfere with, restrain or deny the
22 exercise of, or the attempt to exercise, any right provided under
23 this section.
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1 B. This section shall not be construed to affect any other
2 provision of law relating to sex discrimination or pregnancy, or in
3 any way to diminish the coverage of pregnancy, childbirth or a
4 medical condition related to pregnancy or childbirth or adoption
5 under any other provision of law of this state or the federal Family
6 and Medical Leave Act.

7 C. Any violation of the provisions of this act may be enforced
8 by the discriminated state employee in a civil action filed in the
9 district court of the county where the state employer's principal
10 office is located. In addition to a civil action, the Commissioner
11 of Labor may impose an administrative fine as authorized by Section
12 89 of Title 40 of the Oklahoma Statutes.

13 SECTION 2. This act shall become effective November 1, 2017.
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15 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM,
16 dated 04/12/2017 - DO PASS, As Amended.
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