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February 27, 2017

By: Holt

An Act relating to employment practices; prohibiting certain unlawful employment practices for certain persons; recognizing provisions of the Family and Medical Leave Act; stating prohibited acts; authorizing use of accrued paid leave; requiring certain healthcare coverage during certain leave; authorizing reimbursement of certain premiums paid; granting exception to certain reimbursements; construing certain employment agreements; construing transfer policies; construing certain provisions; providing for violation enforcement; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

1. For a state employer to refuse to allow an employee disabled by pregnancy, childbirth, or a related medical condition or for

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

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

14 2. a. for a state employer to refuse to maintain and pay for  
15 coverage for an eligible employee who takes leave  
16 pursuant to paragraph 1 of this subsection under a  
17 group health plan, as defined in Section 5000(b)(1) of  
18 the Internal Revenue Code of 1986, for the duration of  
19 the leave, not to exceed twenty (20) weeks over the  
20 course of a twelve-month period, commencing on the  
21 date the leave taken under paragraph 1 of this  
22 subsection begins, at the level and under the  
23 conditions that coverage would have been provided if  
24 the employee had continued in employment continuously

1 for the duration of the leave. Nothing in this  
2 paragraph shall preclude a state employer from  
3 maintaining and paying for coverage under a group  
4 health plan beyond the twenty-week period. A state  
5 employer may recover from the state employee the  
6 premiums paid as required under this subsection for  
7 maintaining coverage for the state employee under the  
8 group health plan if both of the following conditions  
9 occur:

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

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

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

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

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

23 3. a. for a state employer to refuse to provide reasonable  
24 accommodation for a state employee for a condition

1 related to pregnancy, childbirth or for adoption or  
2 foster care placement of a child or a related medical  
3 condition, if requested, with the advice of a health  
4 care provider,

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

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

22 4. For a state employer to interfere with, restrain or deny the  
23 exercise of, or the attempt to exercise, any right provided under  
24 this section.

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 principle  
10 office is located, by the Commissioner of Labor pursuant to  
11 administrative fines authorized by Section 89 of Title 40 of the  
12 Oklahoma Statutes, by both administrative fine and district court  
13 action.

14       SECTION 2. This act shall become effective November 1, 2017.

15 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT  
16 February 27, 2017 - DO PASS  
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