

IC 22-2-13

Chapter 13. Military Family Leave

IC 22-2-13-0.3

Effect of addition of chapter by P.L.151-2007

Sec. 0.3. The addition of this chapter by P.L.151-2007 does not excuse noncompliance with a provision of a collective bargaining agreement or other employment benefit program or plan in effect on July 1, 2007, that is not in substantial conflict with this chapter, as added by P.L.151-2007. This chapter, as added by P.L.151-2007, does not justify an employer reducing employment benefits provided by the employer that exceed the benefits required by this chapter, as added by P.L.151-2007.

As added by P.L.220-2011, SEC.362.

IC 22-2-13-1

Application of chapter

Sec. 1. This chapter applies to an employer that employs at least fifty (50) employees for each working day during each of at least twenty (20) calendar work weeks.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-2

"Armed forces of the United States"

Sec. 2. As used in this chapter, "armed forces of the United States" means the active or reserve components of:

- (1) the Army;
- (2) the Navy;
- (3) the Air Force;
- (4) the Coast Guard;
- (5) the Marine Corps; or
- (6) the Merchant Marine.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-2.5

"Child"

Sec. 2.5. As used in this chapter, "child" means a biological child, adopted child, foster child, or stepchild.

As added by P.L.45-2009, SEC.1.

IC 22-2-13-3

"Employee"

Sec. 3. As used in this chapter, "employee" means a person employed or permitted to work or perform services for remuneration under a contract of hire, written or oral, by an employer.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-4

"Employer"

Sec. 4. As used in this chapter, the term "employer" includes the state and political subdivisions of the state.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-5**"Grandparent"**

Sec. 5. As used in this chapter, "grandparent" means a biological grandparent, an adoptive grandparent, a foster grandparent, or a stepgrandparent.

As added by P.L.151-2007, SEC.3. Amended by P.L.45-2009, SEC.2.

IC 22-2-13-6**"Health care benefits"**

Sec. 6. As used in this chapter, "health care benefits" means employer provided health coverage, including coverage for medical care, prescription drugs, vision care, medical savings accounts, or any other health related benefit.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-7**"Active duty"**

Sec. 7. As used in this chapter, "active duty" means full-time service on active duty orders in:

- (1) the armed forces of the United States; or
- (2) the National Guard;

for a period that exceeds eighty-nine (89) consecutive calendar days.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-8**"National Guard"**

Sec. 8. As used in this chapter, "National Guard" means:

- (1) the Indiana Army National Guard; or
- (2) the Indiana Air National Guard.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-9**"Parent"**

Sec. 9. As used in this chapter, "parent" means:

- (1) a biological father or mother;
- (2) an adoptive father or mother;
- (3) a court appointed guardian or custodian;
- (4) a foster parent; or
- (5) a stepparent.

As added by P.L.151-2007, SEC.3. Amended by P.L.45-2009, SEC.3.

IC 22-2-13-10**"Sibling"**

Sec. 10. As used in this chapter, "sibling" means:

- (1) a biological brother or sister;
- (2) an adoptive brother or sister;
- (3) a foster brother or sister; or
- (4) a stepbrother or stepsister.

As added by P.L.151-2007, SEC.3. Amended by P.L.45-2009, SEC.4.

IC 22-2-13-11

Eligibility; leave amount; use of other paid leave

Sec. 11. (a) An employee who:

- (1) has been employed by an employer for at least twelve (12) months;
- (2) has worked at least one thousand five hundred (1,500) hours during the twelve (12) month period immediately preceding the day the leave begins; and
- (3) is the spouse, parent, grandparent, child, or sibling of a person who is ordered to active duty;

is entitled to an unpaid leave of absence as provided in subsection (b).

(b) An employee may take a leave of absence during one (1) or more of the following periods:

- (1) During the thirty (30) days before active duty orders are in effect.
- (2) During a period in which the person ordered to active duty is on leave while active duty orders are in effect.
- (3) During the thirty (30) days after the active duty orders are terminated.

(c) The leave of absence allowed each calendar year under subsection (a) may not exceed a total of ten (10) working days.

(d) An eligible employee may elect, or an employer may require the employee, to substitute any earned paid vacation leave, personal leave, or other paid leave, except for paid medical or sick leave, available to the employee for leave provided under this chapter for any part of the ten (10) day period of such leave.

As added by P.L.151-2007, SEC.3. Amended by P.L.45-2009, SEC.5.

IC 22-2-13-12

Employee notice; employer verification

Sec. 12. (a) An employee who wants to take a leave of absence under this chapter shall provide written notice, including a copy of the active duty orders if available, to the employee's employer of the date the leave will begin. An employee shall give at least thirty (30) days notice before the date on which the employee intends to begin the leave, unless the active duty orders are issued less than thirty (30) days before the date the requested leave is to begin.

(b) An employer may require verification of an employee's eligibility for the leave. If an employee fails to provide verification required under this subsection, an employer may consider the

employee's absence from employment unexcused.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-13

Employee post-leave restoration to same or equivalent position

Sec. 13. (a) Except as provided in subsection (b), after an employee takes a leave of absence under this chapter, an employee must be restored to:

- (1) the position that the employee held before the leave; or
- (2) a position equivalent to the position that the employee held before the leave, with equivalent seniority, pay, benefits, and other terms and conditions of employment.

(b) An employer is not required to restore an employee to a position described in subsection (a) if the employer proves that the reason that the employee was not restored to the position is unrelated to the employee's exercise of the employee's rights under this chapter.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-14

Continuation of employee health care benefits

Sec. 14. An employer shall permit an employee who is taking a leave of absence under this chapter to continue the employee's health care benefits at the employee's expense.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-15

Employer noninterference with employee rights

Sec. 15. An employer shall not interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided under this chapter.

As added by P.L.151-2007, SEC.3.

IC 22-2-13-16

Remedies

Sec. 16. (a) An employee may bring a civil action at law to enforce this chapter.

(b) A circuit court, superior court, or probate court may:

- (1) enjoin any act or practice that violates this chapter; and
- (2) order any other equitable relief that is just and proper under the circumstances to redress the violation of or to enforce this chapter.

As added by P.L.151-2007, SEC.3. Amended by P.L.84-2016, SEC.94.