

1991 BILL 291

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 291

AN ACT TO AMEND
THE EMPLOYMENT STANDARDS CODE

MR. JONSON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 291
Mr. Jonson

BILL 291

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AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT

(Assented to , 1991)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 The Employment Standards Code is amended by this Act.

2 Section 63 is amended

(a) by repealing subsection (c) and substituting:

(c) "parental leave" means leave under section 70;

(b) by adding the following after clause (c):

(d) "parent" includes a person with whom a child is placed for adoption and a person who is in a relationship of some permanence with a parent of a child and who intends to treat the child as his or her own.

3 Section 64 is repealed and the following is substituted:

64(1) A pregnant employee who has been employed by an employer for a continuous period of at least 13 weeks before the earlier of the date of delivery or the beginning of leave is entitled to maternity leave without pay.

(2) A pregnant employee referred to in subsection (1) is entitled to maternity leave of a period not exceeding 17 weeks commencing at any time during the period of 17 weeks immediately preceding the estimated date of delivery.

Explanatory Notes

1 This Bill will amend chapter E-10.2 of the Statutes of Alberta of 1988.

2 This section amends the definition of "parental leave" so that it no longer includes maternity leave. It also defines "parent" and thereby identifies those persons who will be eligible for parental leave.

3 This section reduces the qualifying period for maternity leave from 12 months to 13 weeks and reduces maternity leave from 18 to 17 weeks. Except where an employee does not qualify for parental leave, the extension of maternity leave by the time between expected and actual date of delivery is removed. The requirement that at least 6 weeks of the leave is to be taken after the birth of the child is also removed. These changes recognize that parental leave is now available immediately following maternity leave.

(3) Maternity leave of an employee who is not entitled to parental leave ends

(a) on the day that is 17 weeks after the commencement of maternity leave, or

(b) the day that is 6 weeks after the birth, still birth or miscarriage.

4 Section 66 is repealed and the following substituted:

66 An employee may, subject to section 72(1), return to work within the 6-week period following the actual date of delivery by providing her employer with a medical certificate indicating that resumption of work by the employee will not endanger her health.

5 Section 68 is repealed.

6 Section 70(1) is repealed and the following substituted:

70(1) An employer shall grant parental leave, in accordance with subsection (2), to an employee who is the parent of a child and who

(a) has been in the employment of the employer for a continuous period of at least 13 weeks before the date on which leave is to begin, and

(b) submits a written notice of leave to the employer at least 2 weeks before the leave is to begin.

(2) Parental leave consists of a period of not more than 18 weeks of leave without pay commencing no later than 35 weeks after the day the child is born or comes into custody of the parent for the first time.

(3) Notwithstanding subsection (2) the parental leave of an employee who takes maternity leave must begin when the maternity leave ends unless the child has not yet come into the

Explanatory Notes

4 Early return to work will no longer require the approval of the employer.

5 This section is no longer necessary due to the availability of parental leave.

6 This section replaces the concept of adoption leave with parental leave which is available to both the natural and adoptive parents of a child. The leave is up to 18 weeks and, except for the natural mother, must be taken within 35 weeks after the day the child is born or comes into the custody, care and control of the parent for the first time. The natural mother must take the leave consecutively with maternity leave. The requirement that an adopted child must be under the age of 3 has been removed.

custody of a parent for the first time.

(4) Where an employee is unable to comply with subsection (1)(b), because the child comes into the custody of a parent for the first time sooner than expected, the employee shall give notice to the employer forthwith after receiving notice of the date that the child will come into the employee's custody.

7 *Section 71 is repealed and the following substituted:*

71 Subject to section 73, no employer shall terminate the employment of or lay off an employee who has commenced maternity leave, or parental leave, under this Division.

8 *Section 72 is repealed and the following substituted:*

72(1) An employee who wishes to resume working prior to the expiration of maternity leave or parental leave under this Division shall give the employer 4 weeks' notice in writing of the day on which the employee intends to resume working for the employer and the employer shall

(a) reinstate the employee in the position occupied at the time that parental leave commenced, or

(b) provide the employee with alternative work of a comparable nature,

at not less than the same wages, entitlements and other benefits that had accrued to the employee to the date that parental leave commenced.

(2) No employer is required to allow an employee to whom maternity or parental leave has been granted under this Division to resume employment with the employer after the date of delivery or the date of first obtaining custody until after the expiration of 4 weeks from the date on which the employee notifies the employer of the employee's intention to resume working.

(3) If the employee does not notify the employer the final date of the leave shall be the presumed date of return to work of

Explanatory Notes

7 Adoption leave is replaced by parental leave.

8 This section is amended to require 4 instead of 2 weeks notice where an employee wishes to return to work before the last permissible day of maternity or parental leave. No notice is required if the employee intends to return on the day following the last permissible day of leave.

the employee.

9 *In the following provisions "parental leave" is struck out wherever it occurs and "maternity leave or parental leave" is substituted:*

- (a) section 73;
- (b) section 74.

10 *This Act comes into force on Proclamation.*

Explanatory Notes

9 This change ensures that employees, whether on maternity leave or parental leave, are treated identically under these two sections.