

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Anthony Hensley a
Chairperson

9:10 a.m./~~p.m.~~ on March 6, 1991 in room 526-S of the Capitol

All members were present except:

Rep. Douville

Committee staff present:

Jim Wilson, Revisor
Jerry Donaldson, Research Assistant
Barbara Dudney, Committee Secretary

Conferees appearing before the committee:

The meeting was called to order at 9:10 a.m. by the chairman, Rep. Anthony Hensley.

Chairman Hensley announced discussion and final action on House Bill No. 2076, the Family and Medical Leave Act. He said that the committee will work the bill section by section using the two "balloon" versions, one containing the subcommittee recommendations, and the other containing suggested amendments not recommended by the subcommittee (attachments #1 and #2).

In Section 2., Rep. Denise Everhart moved to amend the bill by adopting all of the subcommittee recommendations with the exception of changing the definition of "health care provider" to include "licensed social worker. Rep. Darrel Webb seconded the motion. Motion carried.

In Section 3., Rep. Garry Boston moved to define "week" to mean seven working days. Motion died for lack of a second.

Rep. Everhart moved that the amendments recommended by subcommittee in Section 3. be adopted. The motion was seconded by Rep. Diane Gjerstad. Motion carried.

Rep. Gene Amos moved that at the beginning of Section 4., in line 21, to insert the words, "Subject to employer approval." Rep. Dorothy Flottman seconded the motion.

The chairman announced that the committee will resume discussion of Rep. Amos' motion to amend tomorrow.

The meeting was adjourned at 10:10 a.m.

HOUSE BILL No. 2076

By Committee on Labor and Industry

1-30

PROPOSED AMENDMENTS TO HB 2076
Submitted by Subcommittee

For Consideration by House Committee on Labor and Industry

2-22-91

Labor & Industry
3-6-91
Attachment #1-1

8 AN ACT enacting the family and medical leave act; providing for
9 unpaid leaves of absence from employment for certain employees
10 for births, adoptions and family illnesses.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. This act may be cited as the family and medical leave
14 act.

15 Sec. 2. As used in this act:

16 (a) "Child" means a birth child, adopted child, foster child, step-
17 child or legal ward to whom any of the following applies:

- 18 (1) The individual is less than 18 years of age.
- 19 (2) The individual is 18 years of age or older and cannot care
20 for the individual's self because of a serious health condition.

21 (b) "Christian ~~science~~ practitioner" means a ~~christian science~~
22 practitioner ~~residing in this state~~ who is listed as a practitioner in
23 ~~the christian science journal~~.

24 (c) "Employee" means an individual employed in this state by
25 an employer, except the employer's parent, spouse or child.

26 (d) "Employer" means a person engaging in any activity, enter-
27 prise or business in this state employing at least 50 individuals ~~on~~
28 a permanent basis. Employer includes the state and any office, de-
29 partment, independent agency, authority, institution, association, so-
30 ciety or other body in state government created or authorized to be
31 created by the constitution or any law, ~~including the legislature and~~
32 ~~the courts~~.

33 (e) "Employment benefit" means ~~an insurance, leave or retire-~~
34 ~~ment~~ benefit which an employer makes available to an employee.

35 (f) "Health care provider" means a person licensed to practice a
36 branch of the healing arts, a licensed dentist, a certified advanced
37 registered nurse practitioner, a licensed professional nurse, a licensed
38 practical nurse, a licensed optometrist, a licensed psychologist, a
39 licensed podiatrist, a registered physical therapist ~~or~~ a registered
40 occupational therapist.

41 (g) "Parent" means a birth parent, foster parent, adoptive parent,
42 stepparent or legal guardian of an employee or an employee's spouse.

43 (h) "Serious health condition" means a disabling physical or men-

Science

Christian Science

The Christian Science Journal

within this state

, except that employer does not include any office or agency of the
legislative or judicial branch of state government

any

under a welfare or fringe benefit program

or a licensed social worker

1 tal illness, injury, impairment or condition involving any of the
2 following:

3 (1) Inpatient care in a medical care facility, as defined in K.S.A.
4 65-425 and amendments thereto; adult care home, as defined in
5 K.S.A. 39-923 and amendments thereto; psychiatric hospital or men-
6 tal health center licensed pursuant to K.S.A. 65-3307b and amend-
7 ments thereto; or hospice.

8 (2) Outpatient care that requires continuing treatment or super-
9 vision by a health care provider.

10 (i) "Spouse" means an employee's legal husband or wife.

11 Sec. 3. (a) Nothing in this act prohibits an employer from pro-
12 viding employees with rights to family leave or medical leave which
13 are more generous to the employee than the rights provided under
14 this act.

15 (b) This act does not limit or diminish an employee's rights or
16 benefits under the workers compensation act.

17 (c) This act only applies to an employee who has been employed
18 by the same employer for more than 52 consecutive weeks and who
19 worked for the employer for an average of 20 hours per week during
20 the preceding 52-week period.

21 Sec. 4. (a) An employee may take family leave for any of the
22 following reasons:

23 (1) The birth of the employee's birth child, if the leave begins
24 within 16 weeks of the child's birth.

25 (2) The placement of a child with the employee for adoption or
26 as a precondition to adoption but not both, if the leave begins within
27 16 weeks of the child's placement.

28 (3) To care for the employee's child, spouse or parent, if the
29 child, spouse or parent has a serious health condition.

30 ~~(b) This act does not entitle an employee to take more than 10~~
31 ~~weeks of family leave in a 24 month period for any combination of~~
32 ~~reasons specified under subsection (a).~~

33 ~~(c) Except as provided in subsection (d), an employee shall sched-~~
34 ~~ule family leave after reasonably considering the needs of the em-~~
35 ~~ployee's employer.~~

36 ~~(d) An employee may take family leave as partial absence from~~
37 ~~employment. An employee who does so shall schedule all partial~~
38 ~~absence so it does not unduly disrupt the employer's operations.~~

39 Sec. 5. (a) Subject to subsections (b) and (c), an employee who
40 has a serious health condition which makes the employee unable to
41 perform the employee's employment duties may take medical leave
42 for the period during which the employee is unable to perform those
43 duties.

or Christian Science practitioner

(d) Each office or agency of the legislative or judicial branch of state government shall provide family and medical leave benefits which are no less comprehensive than those provided by this act.

or more

(e) This act does not entitle an employee to take more than 12 weeks, or the equivalent thereof, of family leave or medical leave, or any combination of family leave or medical leave, during any 12-month period.

and employer

An

(b)

The employer may require the use of accrued leave with pay prior to granting leave without pay.

1 ~~(b) This act does not entitle an employee to take more than 6~~
2 ~~weeks of medical leave during a 12 month period.~~

3 ~~(c) [An employee may schedule medical leave as medically~~
4 ~~necessary.~~

(b)

5 Sec. 6. ~~(a)~~ This act does not entitle an employee to receive wages
6 or salary while taking family leave or medical leave.

7 ~~(b) An employee may substitute, for portions of family leave or~~
8 ~~medical leave, paid or unpaid leave of any other type provided by~~
9 ~~the employer.~~

10 Sec. 7. (a) If an employee intends to take family leave for the
11 reason specified in subsection (a)(1) or (2) of section 4, the employee
12 shall, in a reasonable and practicable manner, give the employer
13 advance notice of the expected birth or placement.

14 (b) If an employee intends to take family leave because of the
15 planned medical treatment or supervision of a child, spouse or parent
16 or intends to take medical leave because of the planned medical
17 treatment or supervision of the employee, the employee shall do all
18 of the following:

19 (1) Make a reasonable effort to schedule the medical treatment
20 or supervision so that it does not unduly disrupt the employer's
21 operations, subject to the approval of the health care provider of
22 the child, spouse, parent or employee.

23 (2) Give the employer advance notice of the medical treatment
24 or supervision in a reasonable and practicable manner.

25 Sec. 8. (a) If an employee requests family leave for a reason
26 described in subsection (a)(3) of section 4 or requests medical leave,
27 the employer may require the employee to provide certification, as
28 described in subsection (b), issued by the health care provider or
29 christian science practitioner of the child, spouse, parent or em-
30 ployee, whichever is appropriate.

31 (b) No employer may require certification stating more than the
32 following:

33 (1) That the child, spouse, parent or employee has a serious
34 health condition.

35 (2) The date the serious health condition commenced and its
36 probable duration.

37 (3) ~~Within the knowledge of the health care provider or christian~~
38 ~~science~~ practitioner, the medical facts regarding the serious health
39 condition.

Christian Science

40 (4) If the employee requests medical leave, an explanation of the
41 extent to which the employee is unable to perform the employee's
42 employment duties.

43 (c) The employer may require the employee to obtain the opinion

1 of a second health care provider, chosen and paid for by the em-
 2 ployer, concerning any information certified under subsection (b).

3 Sec. 9. (a) Subject to subsection (c), when an employee returns
 4 from family leave or medical leave, the employee's employer shall
 5 immediately place the employee in an employment position as fol-
 6 lows:

7 (1) If the employment position which the employee held im-
 8 mediately before the family leave or medical leave began is vacant
 9 when the employee returns, in that position.

10 (2) If the employment position which the employee held im-
 11 mediately before the family leave or medical leave began is not
 12 vacant when the employee returns, in an equivalent employment
 13 position having equivalent compensation, benefits, working shift,
 14 hours of employment and other terms and conditions of employment.

15 (b) No employer may, because an employee received family leave
 16 or medical leave, reduce or deny an employment benefit which
 17 accrued to the employee before the employee's leave began or,
 18 consistent with section 10, accrued after the employee's leave began.

19 (c) Notwithstanding subsection (a), if an employee on a medical
 20 or family leave wishes to return to work before the end of the leave
 21 as scheduled, the employer shall place the employee in an employ-
 22 ment position of the type described in subsection (a)(1) or (2) within
 23 a reasonable time not exceeding the duration of the leave as
 24 scheduled.

25 Sec. 10. (a) Except as provided in subsection (b), nothing in this
 26 act entitles a returning employee to a right, employment benefit or
 27 employment position to which the employee would not have been
 28 entitled had the employee not taken family leave or medical leave
 29 or to the accrual of any seniority or employment benefit during a
 30 period of family leave or medical leave.

31 (b) ~~Subject to subsection (c),~~ during a period an employee takes
 32 family leave or medical leave, the ~~employee's~~ employer shall maintain
 33 group health insurance coverage under the conditions that applied
 34 immediately before the family leave or medical leave began. If the
 35 employee continues making any contribution required for partici-
 36 pation in the group health insurance plan, the employer shall con-
 37 tinue making group health insurance premium contributions as if the
 38 employee had not taken the family leave or medical leave.

39 ~~(c) (1) An employer may require an employee to have in escrow~~
 40 ~~with the employer an amount equal to the entire premium or similar~~
 41 ~~expense for eight weeks of the employee's group health insurance~~
 42 ~~coverage, if coverage is required under subsection (b).~~

43 ~~(2) An employee may pay the amount required under subsection~~

The employer may require the employee to pay, in advance of family leave or medical leave, all or part of the ascertainable amount of contribution required for participation in the group health insurance plan during the period of family leave or medical leave.

1 ~~(a)(1) in equal installments at regular intervals over at least a 12~~
2 ~~month period. An employer shall deposit the payments at a financial~~
3 ~~institution in an interest-bearing account.~~

4 (3) Subject to subsection (c)(4), an employer shall return to the
5 employee any payments made under subsection (c)(1), plus interest,
6 when the employee ends employment with the employer.

7 (4) If an employee ends employment with an employer during
8 or within 30 days after a period of family leave or medical leave,
9 the employer may deduct from the amount returned to the employee
10 under subsection (c)(3) any premium or similar expense paid by the
11 employer for the employee's group health insurance coverage while
12 the employee was on family or medical leave.

13 ~~(d) If an employee ends employment with an employer during~~
14 ~~or at the end of a period of family leave or medical leave, the time~~
15 ~~period for conversion to individual coverage shall be calculated as~~
16 ~~beginning on the day that the employee began the period of family~~
17 ~~leave or medical leave.~~

18 Sec. 11. Nothing in this act prohibits an employer and an em-
19 ployee with a serious health condition from mutually agreeing to
20 alternative employment for the employee while the serious health
21 condition lasts. No period of alternative employment, with the same
22 employer, reduces the employee's right to family leave or medical
23 leave.

24 Sec. 12. (a) No person may interfere with, restrain or deny the
25 exercise of any right provided under this act.

26 (b) No person may discharge or in any other manner discriminate
27 against any individual for doing any of the following:

28 (1) Opposing a practice prohibited under this act.

29 (2) Filing a charge or instituting or causing to be instituted any
30 proceeding under or related to this act.

31 (3) Assisting or intending to assist in an investigation or pro-
32 ceeding relating to a right under this act.

33 (4) Testifying or intending to testify in an investigation or pro-
34 ceeding relating to a right under this act.

35 Sec. 13. (a) As used in this section, "department" means:

36 (1) ~~The civil service board,~~ if the employee is employed by the
37 state or any office, department, independent agency, authority, in-
38 stitution, association, society or other body in state government cre-
39 ated or authorized to be created by the constitution or any law,
40 including the legislature and the courts.

41 (2) The department of human resources, if the employee is em-
42 ployed by an employer other than one described in subsection (a)(1).

43 (b) An employee who believes the employee's employer has vi-

(c)

continuation of

pursuant to the provisions of the federal consolidated omnibus budget reconciliation act.

and section 14

an employer which is

department of administration

other than any office or agency of the legislative or judicial branch of state government

1 olated section 12 may, within 30 days after the violation occurs or
2 the employee should reasonably have known that the violation oc-
3 curred, whichever is later, file a complaint with the department
4 alleging the violation. The department shall investigate the complaint
5 and shall attempt to resolve the complaint by conference, conciliation
6 or persuasion. If the complaint is not resolved and the department
7 finds probable cause to believe a violation has occurred, the de-
8 partment shall proceed in accordance with the Kansas administrative
9 procedure act.

10 (c) If two or more health care providers disagree about any of
11 the information required to be certified under subsection (b) of sec-
12 tion 8, the department may appoint another health care provider to
13 examine the child, spouse, parent or employee and render an opinion
14 as soon as possible. The department shall promptly notify the em-
15 ployee and the employer of the appointment. The employer and the
16 employee shall each pay 50% of the cost of the examination and
17 opinion.

18 (d) The department shall issue its decision and order within 30
19 days after the hearing. If the department finds that an employer
20 violated section 12, it may order the employer to take action to
21 remedy the violation, including providing requested family leave or
22 medical leave, reinstating an employee, providing back pay accrued
23 not more than two years before the complaint was filed and paying
24 reasonable actual attorney fees to the complainant.

25 ~~Sec. 14. (a) An employee or the department may bring an action~~
26 ~~in district court against an employer to recover damages caused by~~
27 ~~a violation of section 12 after the completion of an administrative~~
28 ~~proceeding, including judicial review, under section 13 concerning~~
29 ~~the same violation.~~

30 ~~(b) An action under subsection (a) shall be commenced with the~~
31 ~~later of the following periods, or be barred:~~

32 ~~(1) Within 60 days from the completion of an administrative pro-~~
33 ~~ceeding, including judicial review, under section 13 concerning the~~
34 ~~same violation.~~

35 ~~(2) Within 12 months after the violation occurred, or the de-~~
36 ~~partment or employee should reasonably have known that the vio-~~
37 ~~lation occurred.~~

38 ~~Sec. 15. (a) Each employer shall post, in one or more conspic-~~
39 ~~uous places where notices to employees are customarily posted, a~~
40 ~~notice in a form approved by the department setting forth employees'~~
41 ~~rights under this act. Violation of this section is a misdemeanor~~
42 ~~punishable by a fine of not more \$100 for each offense.~~

43 ~~(b) Any person employing 25 or more individuals shall post, in~~

1 ~~one or more conspicuous places where notices to employees are~~
2 ~~customarily posted, a notice describing the employer's policy with~~
3 ~~respect to leave for the reasons described in subsection (b) of section~~
4 ~~4 and subsection (a) of section 5.~~
5 Sec. 16⁵ This act shall take effect and be in force from and after
6 its publication in the statute book.

HOUSE BILL No. 2076

By Committee on Labor and Industry

1-30

2-21-91

Submitted Without Recommendation

Labor & Industry
3-6-91
Attachment # 2 2-1

8 AN ACT enacting the family and medical leave act; providing for
9 unpaid leaves of absence from employment for certain employees
10 for births, adoptions and family illnesses.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. This act may be cited as the family and medical leave
14 act.

15 Sec. 2. As used in this act:

16 (a) "Child" means a birth child, adopted child, foster child, step-
17 child or legal ward to whom any of the following applies:

18 (1) The individual is less than 18 years of age.

19 (2) The individual is 18 years of age or older and cannot care
20 for the individual's self because of a serious health condition.

21 (b) "Christian science practitioner" means a christian science
22 practitioner residing in this state who is listed as a practitioner in
23 the christian science journal.

24 (c) "Employee" means an individual employed in this state by
25 an employer, except the employer's parent, spouse or child.

26 (d) "Employer" means a person engaging in any activity, enter-
27 prise or business in this state employing at least 50 individuals on
28 a permanent basis. Employer includes the state and any office, de-
29 partment, independent agency, authority, institution, association, so-
30 ciety or other body in state government created or authorized to be
31 created by the constitution or any law, including the legislature and
32 the courts.

33 (e) "Employment benefit" means an insurance, leave or retire-
34 ment benefit which an employer makes available to an employee.

35 (f) "Health care provider" means a person licensed to practice a
36 branch of the healing arts, a licensed dentist, a certified advanced
37 registered nurse practitioner, a licensed professional nurse, a licensed
38 practical nurse, a licensed optometrist, a licensed psychologist, a
39 licensed podiatrist, a registered physical therapist or a registered
40 occupational therapist.

41 (g) "Parent" means a birth parent, foster parent, adoptive parent,
42 stepparent or legal guardian of an employee or an employee's spouse.

43 (h) "Serious health condition" means a disabling physical or men-

1 tal illness, injury, impairment or condition involving any of the
2 following:

3 (1) Inpatient care in a medical care facility, as defined in K.S.A.
4 65-425 and amendments thereto; adult care home, as defined in
5 K.S.A. 39-923 and amendments thereto; psychiatric hospital or men-
6 tal health center licensed pursuant to K.S.A. 65-3307b and amend-
7 ments thereto; or hospice.

8 (2) Outpatient care that requires continuing treatment or super-
9 vision by a health care provider.

10 (i) "Spouse" means an employee's legal husband or wife.

11 Sec. 3. (a) Nothing in this act prohibits an employer from pro-
12 viding employees with rights to family leave or medical leave which
13 are more generous to the employee than the rights provided under
14 this act.

15 (b) This act does not limit or diminish an employee's rights or
16 benefits under the workers compensation act.

17 (c) This act only applies to an employee who has been employed
18 by the same employer for more than 52 consecutive weeks and who
19 worked for the employer for an average of 20 hours per week during
20 the preceding 52-week period.

Except for employees of the state or any agency
thereof,

21 Sec. 4. (a) An employee may take family leave for any of the
22 following reasons:

Subject to employer approval,

23 (1) The birth of the employee's birth child, if the leave begins
24 within 16 weeks of the child's birth.

25 (2) The placement of a child with the employee for adoption or
26 as a precondition to adoption but not both, if the leave begins within
27 16 weeks of the child's placement.

28 (3) To care for the employee's child, spouse or parent, if the
29 child, spouse or parent has a serious health condition.

30 (b) This act does not entitle an employee to take more than 10
31 weeks of family leave in a 24-month period for any combination of
32 reasons specified under subsection (a).

33 (c) Except as provided in subsection (d), an employee shall sched-
34 ule family leave after reasonably considering the needs of the em-
35 ployee's employer.

36 (d) An employee may take family leave as partial absence from
37 employment. An employee who does so shall schedule all partial
38 absence so it does not unduly disrupt the employer's operations.

(e) The employer may reduce or deny the leave
if the employer is unable to obtain a qualified
temporary replacement for the employee.

39 Sec. 5. (a) Subject to subsections (b) and (c), an employee who
40 has a serious health condition which makes the employee unable to
41 perform the employee's employment duties may take medical leave
42 for the period during which the employee is unable to perform those
43 duties.

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1 (b) This act does not entitle an employee to take more than 6
2 weeks of medical leave during a 12-month period.

3 (c) An employee may schedule medical leave as medically
4 necessary.

5 Sec. 6. (a) This act does not entitle an employee to receive wages
6 or salary while taking family leave or medical leave.

7 (b) An employee may substitute, for portions of family leave or
8 medical leave, paid or unpaid leave of any other type provided by
9 the employer.

10 Sec. 7. (a) If an employee intends to take family leave for the
11 reason specified in subsection (a)(1) or (2) of section 4, the employee
12 shall, in a reasonable and practicable manner, give the employer
13 advance notice of the expected birth or placement.

14 (b) If an employee intends to take family leave because of the
15 planned medical treatment or supervision of a child, spouse or parent
16 or intends to take medical leave because of the planned medical
17 treatment or supervision of the employee, the employee shall do all
18 of the following:

19 (1) Make a reasonable effort to schedule the medical treatment
20 or supervision so that it does not unduly disrupt the employer's
21 operations, subject to the approval of the health care provider of
22 the child, spouse, parent or employee.

employer and the

KASB

23 (2) Give the employer advance notice of the medical treatment
24 or supervision in a reasonable and practicable manner.

25 Sec. 8. (a) If an employee requests family leave for a reason
26 described in subsection (a)(3) of section 4 or requests medical leave,
27 the employer may require the employee to provide certification, as
28 described in subsection (b), issued by the health care provider or
29 christian science practitioner of the child, spouse, parent or em-
30 ployee, whichever is appropriate.

31 (b) No employer may require certification stating more than the
32 following:

33 (1) That the child, spouse, parent or employee has a serious
34 health condition.

35 (2) The date the serious health condition commenced and its
36 probable duration.

37 (3) Within the knowledge of the health care provider or christian
38 science practitioner, the medical facts regarding the serious health
39 condition.

40 (4) If the employee requests medical leave, an explanation of the
41 extent to which the employee is unable to perform the employee's
42 employment duties.

43 (c) The employer may require the employee to obtain the opinion

1 (c)(1) in equal installments at regular intervals over at least a 12-
2 month period. An employer shall deposit the payments at a financial
3 institution in an interest-bearing account.

4 (3) Subject to subsection (c)(4), an employer shall return to the
5 employee any payments made under subsection (c)(1), plus interest,
6 when the employee ends employment with the employer.

7 (4) If an employee ends employment with an employer during
8 or within 30 days after a period of family leave or medical leave,
9 the employer may deduct from the amount returned to the employee
10 under subsection (c)(3) any premium or similar expense paid by the
11 employer for the employee's group health insurance coverage while
12 the employee was on family or medical leave.

13 (d) If an employee ends employment with an employer during
14 or at the end of a period of family leave or medical leave, the time
15 period for conversion to individual coverage shall be calculated as
16 beginning on the day that the employee began the period of family
17 leave or medical leave.

18 Sec. 11. Nothing in this act prohibits an employer and an em-
19 ployee with a serious health condition from mutually agreeing to
20 alternative employment for the employee while the serious health
21 condition lasts. No period of alternative employment, with the same
22 employer, reduces the employee's right to family leave or medical
23 leave.

24 Sec. 12. ~~(a) No person may interfere with, restrain or deny the~~
25 ~~exercise of any right provided under this act.~~

KASB

26 (b) No person may discharge or in any other manner discriminate
27 against any individual for doing any of the following:

28 (1) Opposing a practice prohibited under this act.

29 (2) Filing a charge or instituting or causing to be instituted any
30 proceeding under or related to this act.

31 (3) Assisting or intending to assist in an investigation or pro-
32 ceeding relating to a right under this act.

33 (4) Testifying or intending to testify in an investigation or pro-
34 ceeding relating to a right under this act.

35 Sec. 13. (a) As used in this section, "department" means:

36 (1) The civil service board, if the employee is employed by the
37 state or any office, department, independent agency, authority, in-
38 stitution, association, society or other body in state government cre-
39 ated or authorized to be created by the constitution or any law,
40 including the legislature and the courts.

41 (2) The department of human resources, if the employee is em-
42 ployed by an employer other than one described in subsection (a)(1).

43 (b) An employee who believes the employee's employer has vi-

(c) An employee who feels that the employer's decision to deny requested use of family leave or medical leave is unreasonable may challenge the reasonableness of that decision in accordance with section 13.

1 olated section 12| may, within 30 days after the violation occurs or
 2 the employee should reasonably have known that the violation oc-
 3 curred, whichever is later, file a complaint with the department
 4 alleging the violation. The department shall investigate the complaint
 5 and shall attempt to resolve the complaint by conference, conciliation
 6 or persuasion. If the complaint is not resolved and the department
 7 finds probable cause to believe a violation has occurred, the de-
 8 partment shall proceed in accordance with the Kansas administrative
 9 procedure act.

10 (c) If two or more health care providers disagree about any of
 11 the information required to be certified under subsection (b) of sec-
 12 tion 8, the department may appoint another health care provider to
 13 examine the child, spouse, parent or employee and render an opinion
 14 as soon as possible. The department shall promptly notify the em-
 15 ployee and the employer of the appointment. The employer and the
 16 employee shall each pay 50% of the cost of the examination and
 17 opinion.

18 (d) The department shall issue its decision and order within 30
 19 days after the hearing. If the department finds that an employer
 20 violated section 12, it may order the employer to take action to
 21 remedy the violation, including providing requested family leave or
 22 medical leave, reinstating an employee, providing back pay accrued
 23 not more than two years before the complaint was filed and paying
 24 reasonable actual attorney fees to the complainant.

25 Sec. 14. (a) An employee or the department may bring an action
 26 in district court against an employer to recover damages caused by
 27 a violation of section 12 after the completion of an administrative
 28 proceeding, including judicial review, under section 13 concerning
 29 the same violation.

30 (b) An action under subsection (a) shall be commenced with the
 31 later of the following periods, or be barred:

32 (1) Within 60 days from the completion of an administrative pro-
 33 ceeding, including judicial review, under section 13 concerning the
 34 same violation.

35 (2) Within 12 months after the violation occurred, or the de-
 36 partment or employee should reasonably have known that the vio-
 37 lation occurred.

38 Sec. 15. (a) Each employer shall post, in one or more conspic-
 39 uous places where notices to employees are customarily posted, a
 40 notice in a form approved by the department setting forth employees'
 41 rights under this act. Violation of this section is a misdemeanor
 42 punishable by a fine of not more \$100 for each offense.

43 (b) Any person employing 25 or more individuals shall post, in

or has unreasonably denied the employee's request
 for family leave or medical leave,