

SENATE BILL NO. 409

BY SENATORS MYERS, BARROW, SEABAUGH, SELDERS, STINE AND TALBOT
AND REPRESENTATIVES CHASSION AND HILFERTY

1 AN ACT

2 To enact Part II-A of Subchapter A of Chapter 5-F of Title 40 of the Louisiana Revised
3 Statutes of 1950, to be comprised of R.S. 40:1264.1 and 1264.2, relative to public
4 health; to provide for paid leave for living organ donors; to provide for legislative
5 purpose; to provide for legislative intent; to provide for eligibility; to provide for
6 verification procedures by employers; to prohibit forfeiture of leave under certain
7 circumstances; to provide for paid leave by private employers; to provide definitions;
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Part II-A of Subchapter A of Chapter 5-F of Title 40 of the Louisiana
11 Revised Statutes of 1950, comprised of R.S. 40:1264.1 and 1264.2, is hereby enacted to read
12 as follows:

13 **PART II-A. LOUISIANA LIVING DONOR PAID LEAVE PROTECTION ACT**

14 **§1264.1. Citation; purpose; legislative intent**

15 **A. This Part shall be known and may be cited as the "Louisiana Living**
16 **Donor Paid Leave Protection Act".**

17 **B. The legislature declares that the purpose of this Part is all of the**
18 **following:**

19 **(1) To protect living organ donors from job insecurity or surgery delays.**

20 **(2) To encourage living organ donors whose organs last longer and**

1 function better than deceased donor organs.

2 (3) To keep Louisianians healthy, employed, and out of long-term state-
3 funded care, thereby saving the state thousands of dollars per patient each year.

4 C. It is the intent of the legislature to facilitate living organ donors'
5 return to employment at a reasonable cost to the employer.

6 §1264.2. Definitions; paid leave for public-sector living organ donors; unlawful
7 practice by employers prohibited; relationship to other leave

8 A. As used in this Section, the following definitions apply:

9 (1)(a) "Employee" means a full-time employee of a state agency who has
10 been continuously employed by the same agency for at least twelve months.

11 (b) "Employee" does not include an independent contractor.

12 (2) "Employer" means a state agency.

13 (3) "Human organ" means all or part of a liver, pancreas, kidney,
14 intestine, lung, or bone marrow.

15 (4) "Living organ donor" and "organ donor" mean a person who
16 knowingly and willingly donates all or part of a human organ while the person
17 is alive for transplantation into another person.

18 (5)(a) "Private employer" means a sole proprietor, corporation,
19 partnership, limited liability company, or other entity with one or more
20 employees.

21 (b) "Private employer" does not include a municipality, parish, state
22 agency, institution of higher education, or other public employer.

23 (6)(a) "State agency" means any state board, commission, department,
24 agency, office, or other entity which makes rules, regulations, or policy, or
25 formulates or issues decisions or orders pursuant to, as directed by, or in
26 implementation of, the constitution and laws of the United States or the
27 constitution and laws of this state.

28 (b) "State agency" does not include the legislature or any branch,
29 committee, or office thereof, any political subdivision as defined in Article VI,
30 Section 44 of the Constitution of Louisiana or any board, commission,

1 department, agency, office, or other entity thereof, or any court.

2 B.(1) An employer shall grant paid leave of absence to an employee who
3 seeks to undergo a medical procedure to donate a human organ. The paid leave
4 of absence shall not exceed thirty consecutive calendar days beginning on the
5 day immediately following the organ donation surgery. This paid leave shall run
6 concurrently with any unpaid leave granted to eligible employees pursuant to
7 the Family and Medical Leave Act, 29 U.S.C. 2601 et seq. Paid leave granted
8 pursuant to this Section shall be in addition to any sick leave, annual leave, or
9 military leave accrued by the employee during his employment with the state
10 agency.

11 (2) The employer may require verification by a physician of the purpose
12 and length of each period of leave requested by the employee to donate a human
13 organ. If there is a medical determination that the employee does not qualify as
14 an organ donor, the paid leave of absence granted to the employee prior to that
15 medical determination is not forfeited.

16 (3) A private employer shall grant an employee an unpaid leave of
17 absence to allow the employee to serve as a human organ donor or a bone
18 marrow donor if the employee requests a leave of absence in writing.

19 (4) The length of the leave of absence shall be equal to the time requested
20 by the employee or thirty consecutive calendar days.

21 (5) Nothing in this Section shall prevent a private employer from
22 granting a paid or an unpaid leave of absence for a length of time greater than
23 thirty consecutive calendar days.

24 C. No employee shall be discharged, demoted, suspended, threatened,
25 harassed, or discriminated against in any manner for requesting or obtaining
26 a leave of absence as provided for in this Section.

27 D. This Section does not prevent an employer from providing leave for
28 living organ donations in addition to leave allowed pursuant to this Section. This
29 Section does not affect an employee's rights with respect to any other
30 employment benefit.

1 **E. The paid leave for organ donation authorized by this Section has no**
2 **cash value upon termination from employment.**

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____