

House File 116 - Introduced

HOUSE FILE 116
BY WINDSCHITL

A BILL FOR

1 An Act providing for employment protections for employees
2 absent from work due to certain adoptions and making
3 penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 216.2, Code 2015, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 01. "*Absence due to an adoption*" includes
4 an absence in order to prepare for or participate in the
5 adoption of a child, or to care for a newly adopted child
6 within the first year of adoption.

7 NEW SUBSECTION. 001. "*Adoption*" means the process of
8 securing legal custody of a child.

9 NEW SUBSECTION. 0001. "*Child*" means a person under six
10 years of age.

11 Sec. 2. Section 216.6, subsection 2, unnumbered paragraph
12 1, Code 2015, is amended to read as follows:

13 Employment policies relating to pregnancy, ~~and~~ childbirth,
14 and adoption shall be governed by the following:

15 Sec. 3. Section 216.6, subsection 2, paragraphs a, d, and e,
16 Code 2015, are amended to read as follows:

17 a. A written or unwritten employment policy or practice
18 which excludes from employment applicants or employees because
19 of the employee's pregnancy or adoption is a prima facie
20 violation of this chapter.

21 d. An employer shall not terminate the employment of a
22 person disabled by pregnancy or absent due to an adoption
23 because of the employee's pregnancy or absence.

24 e. Where a leave is not available or a sufficient leave
25 is not available under any health or temporary disability
26 insurance or sick leave plan available in connection with
27 employment, the employer of the pregnant or adopting employee
28 shall not refuse to grant to the employee who is disabled by
29 the pregnancy, or absent due to an adoption, a leave of absence
30 if the leave of absence is for the period that the employee is
31 disabled because of the employee's pregnancy, childbirth, or
32 related medical conditions, or preparing for or participating
33 in the adoption of a child, or caring for a newly adopted
34 child within the first year of adoption, or for eight weeks,
35 whichever is less. However, the employee must provide timely

1 notice of the period of leave requested and the employer must
2 approve any change in the period requested before the change is
3 effective. Before granting the leave of absence, the employer
4 may require ~~that~~ one of the following:

5 (1) That the employee's disability resulting from pregnancy
6 be verified by medical certification stating that the employee
7 is not able to reasonably perform the duties of employment.

8 (2) That the employee's adoption of a child be verified by
9 documentation of the adoption and that the employee certify in
10 writing that the employee will not able to reasonably perform
11 the duties of employment because the employee will be preparing
12 for or participating in the adoption of a child, or caring for
13 a newly adopted child within the first year of adoption.

14 Sec. 4. Section 216.6, subsection 2, Code 2015, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. *0c.* An employee's absence due to an adoption
17 shall, for all job-related purposes, be treated in the same
18 manner as a temporary disability under any health or temporary
19 disability insurance or sick leave plan available in connection
20 with employment. Written and unwritten employment policies
21 and practices involving matters such as the commencement and
22 duration of leave, the availability of extensions, the accrual
23 of seniority, and other benefits and privileges, reinstatement,
24 and payment under any health or temporary disability insurance
25 or sick leave plan, formal or informal, shall be applied to an
26 employee's absence due to an adoption on the same terms and
27 conditions as they are applied to temporary disabilities.

28 EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 Code chapter 216, the Iowa civil rights Act, provides
32 certain employment protections to employees relating to
33 pregnancy and childbirth. This bill provides that these
34 protections also apply to employees who are absent from work
35 due to an adoption. The bill defines "adoption" as the

1 process of securing legal custody of a child. The bill defines
2 "absence due to an adoption" to include an absence in order
3 to prepare for or participate in the adoption of a child, or
4 to care for a newly adopted child within the first year of
5 adoption. The bill defines "child" as a person under six years
6 of age.

7 The bill provides that an employment policy or practice
8 which excludes from employment applicants or employees because
9 of the employee's adoption is a prima facie violation of Code
10 chapter 216.

11 The bill provides that an employee's absence due to an
12 adoption shall, for all job-related purposes, be treated in
13 the same manner as a temporary disability under any health or
14 temporary disability insurance or sick leave plan available in
15 connection with employment. The bill provides that employment
16 policies and practices involving certain matters such as the
17 commencement and duration of leave, the accrual of seniority,
18 and payment under any health or temporary disability insurance
19 or sick leave plan shall be applied to an employee's absence
20 due to an adoption on the same terms and conditions as they are
21 applied to temporary disabilities.

22 The bill prohibits an employer from terminating the
23 employment of a person absent due to an adoption because of the
24 employee's absence.

25 Where a leave is not available or a sufficient leave is not
26 available under any health or temporary disability insurance
27 or sick leave plan available in connection with employment,
28 the bill prohibits an employer of an adopting employee from
29 refusing to grant to the employee a leave of absence if
30 the leave of absence is for the period that the employee is
31 preparing for or participating in the adoption of a child,
32 or caring for a newly adopted child within the first year of
33 adoption, or for eight weeks, whichever is less. The employee
34 must provide timely notice of the period of leave requested.
35 The employer may first require that the employee's adoption

1 of a child be verified by documentation and that the employee
2 certify that the employee will not able to reasonably perform
3 the duties of employment because the employee will be preparing
4 for or participating in the adoption of a child, or caring for
5 a newly adopted child within the first year of adoption.

6 Penalty provisions for discriminatory employment practices
7 are made applicable to violations of the employment protections
8 granted by the bill.