

House Bill 1173

By: Representatives Scott of the 76th, McClain of the 109th, Davis of the 87th, and Schofield of the 63rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 20, 34, and 45 of the Official Code of Georgia Annotated, relating to
2 education, labor and industrial relations, and public officers and employees, respectively, so
3 as to provide for limited bereavement leave and limited extended compassionate leave for
4 certain employees under certain conditions; to provide for definitions; to prohibit certain
5 employer actions; to provide for a cause of action and remedy; to provide for rules and
6 regulations; to provide for related matters; to provide for a short title; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "DeAndre Thompson Parental Bereavement
11 Protection Act."

12 **SECTION 2.**

13 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in
14 Part 4 of Article 17 of Chapter 2, relating to sick, personal, and maternity leave relevant to

15 teachers and other school personnel, by revising Code Section 20-2-851, relating to use of
16 accumulated sick leave for personal or professional reasons, as follows:

17 "20-2-851.

18 (a) During any school year, personnel may utilize up to a maximum of three days of any
19 accumulated sick leave for the purpose of absenting themselves from their duties for
20 personal or professional reasons if prior approval of their absence is given by the local
21 school superintendent or his or her authorized representative; provided, however, that the
22 absence is not in conflict with a local board of education policy concerning school days on
23 which the presence of the personnel requesting absence is essential for effective school
24 operation. No grant of approval for an absence permitted under this Code section shall be
25 conditioned upon disclosure of the specific purpose for which such absence is sought, nor
26 shall any such grant of approval be withheld or denied because of the failure or refusal of
27 personnel to disclose the specific purpose for which such an absence is sought; provided,
28 however, that personnel may be requested to state whether the absence is sought under the
29 category of 'personal' or 'professional' absence.

30 (b) All personnel shall be entitled to bereavement leave and extended compassionate leave
31 for qualified leave activities as provided for in Code Section 45-20-17.1, and such leave
32 shall be provided unless doing so would disrupt effective school operations; provided,
33 however, that a local board of education may establish and set policies and procedures that
34 require personnel to utilize other leave prior to or in conjunction with any extended
35 compassionate leave."

36 **SECTION 3.**

37 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
38 is amended in Chapter 1, relating to general provisions, by adding a new Code section to read
39 as follows:

40 "34-1-11.

41 (a) As used in this Code section, the term:

42 (1) 'Bereavement leave' means leave an employee is allowed to use for qualified leave
43 activities upon the death of an immediate family member.

44 (2) 'Employee' means an individual who works for salary, wages, or other remuneration
45 for an employer for at least 30 hours per week and has worked for such employer for six
46 or more continuous months. Such term shall not include an eligible employee as defined
47 in Code Section 45-20-17.1.

48 (3) 'Employer' means any individual or entity that employs 25 or more employees. Such
49 term shall not include an employing entity as defined in Code Section 45-20-17.1.

50 (4) 'Extended compassionate leave' means leave an employee is allowed to use for
51 qualified leave activities when an immediate family member dies by homicide or suicide,
52 is killed in action or is declared missing in action while serving in the United States
53 armed forces, or is reported as a missing person with local law enforcement.

54 (5) 'Immediate family member' means an employee's child, spouse, grandchild,
55 grandparent, sibling, or parent, or any dependents as shown in the employee's most recent
56 tax return, or any such family member's spouse.

57 (6) 'Qualified leave activities' means permissible activities for which an employee may
58 use bereavement leave or extended compassionate leave. Such activities include, but are
59 not limited to, making arrangements for, traveling to and from, and attending the funeral
60 or alternative to a funeral of an immediate family member; making legal, financial, or
61 other necessary arrangements related to the death or missing status of an immediate
62 family member; and attending mental health appointments with healthcare providers
63 regarding the death or missing status of an immediate family member.

64 (b) An employee shall be entitled to use a maximum of three work days of paid
65 bereavement leave and ten work days of unpaid bereavement leave per calendar year, and
66 an employer shall provide such leave unless doing so would unduly disrupt the employer's

67 operations. Such leave shall be completed within 60 days of the date an employee receives
68 notice of the death of an immediate family member.

69 (c) An employee shall be entitled to use a maximum of four work weeks of unpaid
70 extended compassionate leave per calendar year, and an employer shall provide such leave
71 unless doing so would unduly disrupt the employer's operations. Such leave shall be
72 completed within one year of the date that the employee receives notice of the death of an
73 immediate family member, notice of the missing in action status of an immediate family
74 member, or the filing of a missing report of an immediate family member.

75 (d) An employee shall provide an employer with at least 48 hours' advance notice of such
76 employee's intention to use bereavement leave or extended compassionate leave, unless
77 providing such notice is not reasonable and practicable.

78 (e) An employer may require reasonable documentation of qualified leave activities. Such
79 documentation may include a death certificate, published obituary, or written verification
80 of death, burial, or memorial services from a mortuary, funeral home, burial society,
81 crematorium, religious institution, or government agency.

82 (f) Provided that the use of such leave under this Code section is not likely to unduly
83 disrupt the employer's operations, it shall be unlawful for an employer to take an adverse
84 employment action against an employee because such employee uses or attempts to use
85 leave under this Code section, opposes practices which such employee believes to be in
86 violation of this Code section, or supports another employee who uses or attempts to use
87 leave under this Code section. Nothing in this subsection shall prevent an employer from
88 taking an adverse employment action against an employee who submits a false or
89 fraudulent document or otherwise provides false or fraudulent information in an attempt
90 to obtain leave under this Code section.

91 (g) An employee who is entitled to paid or unpaid leave from employment pursuant to
92 federal, state, or local law, a collective bargaining agreement, or an employment benefits
93 program or plan may elect to substitute any period of such leave for an equivalent period

94 of bereavement leave or extended compassionate leave. If additional leave beyond the
95 leave provide for in subsections (b) and (c) of this Code section is necessary, the employee
96 may use other leave, subject to the approval of the employer; provided, however, that the
97 protections provided under subsection (f) of this Code section shall only apply to
98 bereavement leave and extended compassionate leave. Unused bereavement leave and
99 extended compassionate leave shall have no cash value at the time of an employee's
100 separation from employment with an employer.

101 (h)(1) An individual may institute a civil action against an employer for violations of this
102 Code section. Such action may be brought in any court of record in this state having
103 jurisdiction over the defendant and shall be brought within 180 days after the alleged
104 prohibited conduct occurred.

105 (2) The court may order any or all of the following relief:

106 (A) An injunction restraining continued violation of this Code section;

107 (B) Reinstatement of such employee to the same position held before the adverse
108 employment action or to an equivalent position;

109 (C) Reinstatement of full fringe benefits and seniority rights;

110 (D) Compensation for lost wages, benefits, and other remuneration; and

111 (E) Reasonable attorney's fees, court costs, and expenses.

112 (i) The department shall adopt rules and regulations for the purpose of implementing the
113 provisions of this Code section."

114 **SECTION 4.**

115 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
116 is amended in Article 1 of Chapter 20, relating to general provisions relevant to personnel
117 administration, by adding a new Code section to read as follows:

118 "45-20-17.1.

119 (a) As used in this Code section, the term:

- 120 (1) 'Bereavement leave' means leave an eligible employee is allowed to use for qualified
121 leave activities upon the death of an immediate family member.
- 122 (2) 'Eligible employee' shall have the same meaning as set forth in Code
123 Section 45-20-17. Such term shall include an eligible employee employed on an hourly
124 basis if he or she has worked a minimum of 700 hours over the six-month period
125 immediately preceding the requested leave date.
- 126 (3) 'Employing entity' shall have the same meaning as set forth in Code
127 Section 45-20-17.
- 128 (4) 'Extended compassionate leave' means leave an eligible employee is allowed to use
129 for qualified leave activities when an immediate family member dies by homicide or
130 suicide, is killed in action or is declared missing in action while serving in the United
131 States armed forces, or is reported as a missing person with local law enforcement.
- 132 (5) 'Immediate family member' means an eligible employee's child, spouse, grandchild,
133 grandparent, sibling, or parent, or any dependents as shown in such employee's most
134 recent tax return, or any such family member's spouse.
- 135 (6) 'Qualified leave activities' means permissible activities for which an eligible
136 employee may use bereavement leave or extended compassionate leave. Such activities
137 include, but are not limited to, making arrangements for, traveling to and from, and
138 attending the funeral or alternative to a funeral of an immediate family member; making
139 legal, financial, or other necessary arrangements related to the death or missing status of
140 an immediate family member; and attending mental health appointments with healthcare
141 providers regarding the death or missing status of an immediate family member.
- 142 (b) All eligible employees shall be entitled to use a maximum of three work days of paid
143 bereavement leave and ten work days of unpaid bereavement leave per calendar year, and
144 an employing entity shall provide such leave unless doing so would unduly disrupt such
145 entity's operations. Such leave shall be completed within 60 days of the date such
146 employee receives notice of the death of the immediate family member.

147 (c) All eligible employees shall be entitled to use a maximum of four work weeks of
148 unpaid extended compassionate leave per calendar year, and an employing entity shall
149 provide such leave unless doing so would unduly disrupt such entity's operations. Such
150 leave shall be completed within one year of the date that such employee receives notice of
151 the death of an immediate family member, notice of the missing in action status of an
152 immediate family member, or the filing of a missing report of an immediate family
153 member.

154 (d) An eligible employee shall provide an employing entity with at least 48 hours' advance
155 notice of such employee's intention to use bereavement leave or extended compassionate
156 leave, unless providing such notice is not reasonable and practicable.

157 (e) An employing entity may require reasonable documentation of qualified leave
158 activities. Such documentation may include a death certificate, published obituary, or
159 written verification of death, burial, or memorial services from a mortuary, funeral home,
160 burial society, crematorium, religious institution, or government agency.

161 (f) Provided that the use of such leave under this Code section is not likely to unduly
162 disrupt the employing entity's operations, it shall be unlawful for an employing entity to
163 take an adverse employment action against an eligible employee because such employee
164 uses or attempts to use leave under this Code section, opposes practices which such
165 employee believes to be in violation of this Code section, or supports another employee
166 who uses or attempts to use leave under this Code section. Nothing in this subsection shall
167 prevent an employing entity from taking an adverse employment action against an eligible
168 employee who submits a false or fraudulent document or otherwise provides false or
169 fraudulent information in an attempt to obtain leave under this Code section.

170 (g) An eligible employee who is entitled to paid or unpaid leave from employment
171 pursuant to federal, state, or local law, a collective bargaining agreement, or an
172 employment benefits program or plan may elect to substitute any period of such leave for
173 an equivalent period of bereavement leave or extended compassionate leave. If additional

174 leave beyond the leave provided for in subsections (b) and (c) of this Code section is
175 necessary, an eligible employee may use other leave, subject to the approval of the
176 employing entity; provided, however, that the protections provided under subsection (f) of
177 this Code section shall only apply to bereavement leave and extended compassionate leave.
178 Unused bereavement leave and extended compassionate leave shall have no cash value at
179 the time of an eligible employee's separation from employment with an employing entity.
180 (h) Each employing entity shall promulgate rules for the administration of leave under this
181 Code section for eligible employees which are not in conflict with this Code section;
182 provided, however, that the State Personnel Board shall promulgate such rules for any
183 employing entity that is considered a department or agency as such terms are
184 synonymously defined in paragraph (6) of Code Section 45-20-2.
185 (i)(1) An eligible employee who has been the object of an adverse employment action
186 in violation of this Code section may institute a civil action in superior court for relief
187 within 180 days after the alleged prohibited conduct occurred.
188 (2) The court may order any or all of the following relief:
189 (A) An injunction restraining continued violation of this Code section;
190 (B) Reinstatement of such employee to the same position held before the adverse
191 employment action or to an equivalent position;
192 (C) Reinstatement of full fringe benefits and seniority rights;
193 (D) Compensation for lost wages, benefits, and other remuneration; and
194 (E) Reasonable attorney's fees, court costs, and expenses."

195 **SECTION 5.**

196 All laws and parts of laws in conflict with this Act are repealed.