

Res. No. 1814

Resolution calling on President Barack Obama to revise the new Family Medical Leave Act (FMLA) regulations to be more employee friendly and to expand coverage to include companies that have less than 50 employees and for other purposes.

By Council Member Lappin

Whereas, The Family Medical Leave Act of 1993 (FMLA) entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons; and

Whereas, The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces the FMLA for all private and state and local government employees; and

Whereas, On January 16, 2009, new federal regulations went into effect with the intent of improving communication between employees, employers, and health care providers to make the law operate more smoothly, and providing needed clarity for both workers and employers about their responsibilities and rights under the FMLA leave; and

Whereas, Such regulations include allowing employers to require "fitness-for-duty" evaluations for workers who took FMLA time and who are returning to jobs that could endanger themselves or others, thereby stopping employers from charging FMLA time to employees who come back to work but can only do "light" duty; and

Whereas, The new regulations also include prohibiting an employee's direct supervisor from getting an employee's medical information when a medical certification is needed under FMLA and requires workers to tell employers in advance when they want to use FMLA time; and

Whereas, Further, the new regulations implement the amendments to the FMLA that were signed into law in January 2008 by the National Defense Authorization Act (NDAA), which expanded the FMLA to allow eligible employees to take up to 12 weeks of job-protected leave in the applicable 12-month period for any “qualifying exigency” arising out of the fact that a covered military member is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation; and

Whereas, In addition, the NDAA amended the FMLA to allow eligible employees to take up to 26 weeks of job-protected leave in a “single 12-month period” to care for a covered servicemember with a serious injury or illness; and

Whereas, Advocates point out that although the new regulations will help military families, the other recent regulations seem to benefit employers at the expense of workers and will make it more difficult for people to use FMLA leave when they need it; and

Whereas, President Barack Obama indicated during his campaign a proposal to expand FMLA coverage to include companies that have 25 or more employees and would include provisions to allow workers to take leave for elder care needs, to provide parents up to 24 hours of leave each year to participate in their children's academic activities at school, to allow leave to be taken for purposes of caring for individuals who reside in their home for 6 months or more, and to expand FMLA to cover leave for employees to address certain domestic violence and sexual assault matters; now, therefore, be it

Resolved, That the Council of the City of New York calls upon President Barack Obama to revise the new Family Medial Leave Act (FMLA) regulations to be more

employee friendly and to expand coverage to include companies that have less than 50 employees and for other purposes.

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7:00pm