

2023 Regular Session

SENATE BILL NO. 200

BY SENATOR DUPLESSIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EMPLOYMENT. Provides that retaliation against an employee for an absence from work due to genetic testing or a medically necessary cancer screening shall be an unlawful employment practice. (8/1/23)

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AN ACT

To amend and reenact R.S. 23:302(7) and (8), and to enact R.S. 23:302(9) and (10) and Part VIII of Chapter 3-A of Title 23 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 23:370, relative to an employee's absence from work to obtain genetic testing or a medically necessary cancer screening; to provide relative to employee obligations; to provide certain employee protections; to provide relative to definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:302(7) and (8) are hereby amended and reenacted and R.S. 23:302(9) and (10) and Part VIII of Chapter 3-A of Title 23 of the Louisiana Revised Statutes of 1950, comprised of R.S. 23:370, are hereby enacted to read as follows:

§302. Definitions

For purposes of this Chapter and unless the content clearly indicates otherwise, the following terms shall have the following meanings ascribed to them:

\* \* \*

**(7) "Medically necessary" means those healthcare services that are in accordance with generally accepted evidence-based medical standards or that**

1 are considered by most physicians or independent licensed practitioners within  
 2 the community of their respective professional organizations to be the standard  
 3 of care.

4 (a) In order to be considered medically necessary, services must be  
 5 deemed reasonably necessary to diagnose, correct, cure, alleviate, or prevent the  
 6 worsening of a condition or conditions that endanger life, cause suffering or  
 7 pain, or have resulted or will result in a handicap, physical deformity, or  
 8 malfunction, and those for which no equally effective and less costly course of  
 9 treatment is available or suitable for the recipient.

10 (b) Services that are experimental, non-FDA approved, investigational,  
 11 or cosmetic are not deemed medically necessary and are specifically excluded  
 12 from coverage unless coverage for early screening and detection is provided for  
 13 in Part III of Chapter 4 of Title 22 of the Louisiana Revised Statutes of 1950.

14 ~~(7)~~**(8)** "Labor organization" means any organization which exists for the  
 15 purpose, in whole or in part, of collective bargaining or of dealing with employers  
 16 concerning grievances, terms, or conditions of employment, or for other mutual aid  
 17 or protection in relation to employment or any agent acting for such an organization.

18 ~~(8)~~**(9)** "Protected genetic information" means information about an  
 19 individual's genetic tests, the genetic tests of an individual's family members, or the  
 20 occurrence of a disease, or medical condition or disorder in family members of the  
 21 individual.

22 **(10) "Preventive cancer screening" means healthcare services necessary**  
 23 **for the detection of cancer in an individual, including but not limited to**  
 24 **magnetic resonance imaging, ultrasound, or some combination of tests.**

25 \* \* \*

26 **PART VIII. GENETIC TESTING AND CANCER SCREENING**

27 **§370. Genetic testing and cancer screening leave of absence**

28 **A. When medically necessary, as that term is defined in R.S. 23:302, an**  
 29 **employer shall grant an employee a day's leave of absence from work to obtain**

1 genetic testing or preventive cancer screening. An employee who wishes to  
2 request such leave shall provide at least fifteen days notice to the employer prior  
3 to the leave and make a reasonable effort to schedule the leave so as not to  
4 unduly disrupt the operations of the employer. Furthermore, the employee shall  
5 provide documentation confirming the performance of such genetic testing or  
6 cancer screening when requested by the employer. An employee shall not be  
7 required to, but may, disclose the results of genetic testing or a preventative  
8 cancer screening.

9 B. Notwithstanding any other provision of law to the contrary, an  
10 employer, employment agency, or labor organization shall not be required to  
11 provide paid time off to any employee who is absent from work due to genetic  
12 testing or a medically necessary cancer screening. However, an employee shall  
13 be permitted to substitute any accrued vacation time or other appropriate paid  
14 leave for leave taken pursuant to this Section.

15 C. Every employer shall post in a conspicuous location on its premises  
16 a notice, to be prepared by the Louisiana Workforce Commission, setting forth  
17 the requirements of this Section.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Yoursheka Butler.

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DIGEST

SB 200 Reengrossed

2023 Regular Session

Duplessis

Present law provides definitions relative to prohibited employment discrimination.

Proposed law retains present law and defines the terms "medically necessary" and "preventive cancer screening".

Proposed law requires an employer to grant an employee a day's leave of absence from work to obtain genetic testing or a preventive cancer screening. Proposed law further requires an employee to provide documentation confirming the performance of such genetic testing or cancer screening upon an employer's request.

Proposed law requires an employee to provide a 15-days notice to an employer prior to requesting leave of absence from work to obtain genetic testing or a preventative cancer screening. Proposed law requires the employee to provide documentation confirming the performance of such genetic testing or cancer screening when requested by the employer.

Proposed law provides that employers, employment agencies, or labor organizations are not required to provide paid time off to an employee who is absent from work due to genetic

testing or a medically necessary cancer screening.

Proposed law permits an employee to disclose the results of genetic testing or a medically necessary cancer screening.

Effective August 1, 2023.

(Amends R.S. 23:302(7) and (8); adds R.S. 23:302(9) and (10) and R.S. 23:370)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Labor and Industrial Relations to the original bill

1. Remove civil remedies.
2. Make technical changes.

Senate Floor Amendments to engrossed bill

1. Removes discrimination or retaliation by employers against employees who are absent from work due to genetic testing or medically necessary cancer screening.
2. Makes technical changes.