

HOUSE BILL REPORT

SSB 6426

As Passed House - Amended:

March 8, 2002

Title: An act relating to use of employer-granted leave to care for family members with serious medical conditions.

Brief Description: Allowing sick leave to care for family members.

Sponsors: By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Keiser, Winsley, Prentice, Franklin, Thibaudeau and Kohl-Welles).

Brief History:

Committee Activity:

Commerce & Labor: 2/27/02, 2/28/02 [DP].

Floor Activity:

Passed House - Amended: 3/8/02, 96-0.

Brief Summary of Substitute Bill (As Amended by House)

- Requires an employer to allow an employee to use sick leave or other paid time off to care for a child with a health condition that requires treatment or supervision, or a spouse, parent, parent-in-law, or grandparent who has a serious health condition or an emergency condition.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 4 members: Representatives Conway, Chair; Wood, Vice Chair; Kenney and Lysen.

Minority Report: Do not pass. Signed by 3 members: Representatives Clements, Ranking Minority Member; Chandler and McMorris.

Staff: Jill Reinmuth (786-7134).

Background:

Certain state and federal laws provide that eligible employees are entitled to take leave for specified family and medical reasons. These laws include the state Family Care Law, the state Family Leave Law, and the federal Family and Medical Leave Act (FMLA).

State Family Care Law:

Employers must allow employees to use accrued sick leave to care for a child under age 18 with a health condition that requires treatment or supervision. Employers must display a poster that describes an employer's obligations and an employee's rights. The poster must also give notice of state laws governing maternity disability leave, and indicate that federal or local laws also may apply. Employers must also post their leave policies, if any.

The Department of Labor and Industries must administer these requirements. The department must notify employers of these requirements, develop and furnish to employers the required poster, and investigate alleged violations of these requirements. If the department reasonably believes an employer has violated these requirements, the department may issue a notice of infraction and impose a civil penalty.

State Family Leave Law:

Enforcement of the state Family Leave Law is currently suspended in large part. As originally enacted, however, eligible employees are entitled to take up to 12 weeks of unpaid leave in a 24-month period for specified reasons, including the care of a child under age 18 with a terminal health condition.

Federal Family and Medical Leave Act:

Eligible employees are entitled to take up to 12 weeks of unpaid leave in a 12-month period for specified reasons, including the care of an immediate family member who has a serious health condition.

Summary of Substitute Bill:

If, under a collective bargaining agreement or employer policy, an employee is entitled to sick leave or other paid time off, the employer must allow the employee to use the employee's choice of that leave to care for the employee's child with a health condition that requires treatment or supervision, or the employee's spouse, parent, parent-in-law, or grandparent who has a serious health condition or an emergency condition. The employee must comply with the terms of the agreement or policy applicable to the leave, except for

terms relating to the choice of leave.

An employer may not discriminate against an employee who exercises these rights, or who assists in any proceeding related to the exercise of these rights.

"Sick leave or other paid time off" means time off for illness, vacation, and personal holiday. Leave may not be taken until it is earned.

"Child" is defined as a child who either is under age 18 or is age 18 or older and incapable of self-care because of a mental or physical disability. "Child" includes: a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect January 1, 2003.

Testimony For: The bill does not create new benefits. Rather, it provides flexibility to use existing benefits. This bill is for the honest workers, the ones who would not otherwise use leave for these purposes. Bringing home a paycheck is not always enough. This bill values families.

Allowing an employee to take leave to care for his or her parents-in-law and grandparents (as well as his or her children, spouse, and parents) makes sense. A recent poll in Washington showed that 83 percent of the persons responding favored making leave available for these purposes. Extended family members are caring for 20 to 25 percent of persons needing care.

Testimony Against: The bill does not do what the proponents say it does. The bill has no effect if an employer does not already offer leave, and thus, will cause employers to limit leave.

The bill should exclude certain other types of leave (e.g., disability leave). It should address scheduling of leave. It should describe leave as accrued; the current description is vague. An employee could work just a few days and then take leave. It conflicts with the federal Family and Medical Leave Act in several respects (e.g., eligible employees, covered family members, advance notice of leave, and employer rights to specify which leave may be taken). The retaliation section could give rise to actions for wrongful discharge. Employers need to be able to manage leave and enforce a reasonable attendance policy. The effective date should be delayed to give employers time to

understand the requirements of this bill.

Testified: (In support) Senator Keiser, prime sponsor; Marilyn Watkins, Economic Opportunity Institute; Pamela Dunn, Washington State Labor Council; and Nick Federici, American Association of Retired Persons.

(Opposed) Clif Finch, Association of Washington Business; and Larry Stevens, Washington Automotive Wholesalers Association.