
SUBSTITUTE HOUSE BILL 2940

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Simpson, G., Campbell, Cooper, Jarrett, Ormsby and Conway)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to increasing leave from employment for children's
2 educational activities; amending RCW 49.78.010, 49.78.005, and
3 49.78.020; adding new sections to chapter 49.78 RCW; creating a new
4 section; and recodifying RCW 49.78.005.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 49.78.010 and 1989 1st ex.s. c 11 s 1 are each amended
7 to read as follows:

8 The legislature finds that the demands of the workplace and of
9 families need to be balanced to promote family stability and economic
10 security. Changes in workplace leave policies are desirable to
11 accommodate changes in the work force such as rising numbers of dual-
12 career couples and working single parents. In addition, given the
13 mobility of American society, many people no longer have available
14 community or family support networks and therefore need additional
15 flexibility in the workplace to meet their family responsibilities.
16 The legislature declares it to be in the public interest to provide
17 reasonable family leave for caring for a child upon the birth or
18 adoption of ((a)) the child ((and to care)), for caring for a child

1 under eighteen years old with a terminal health condition, and for
2 meeting other family responsibilities.

3 **Sec. 2.** RCW 49.78.005 and 1997 c 16 s 1 are each amended to read
4 as follows:

5 (1) Except as provided in subsection (2) of this section, the
6 department shall cease to administer and enforce this chapter beginning
7 on July 27, 1997, and until the earlier of the following dates:

8 (a) The effective date of the repeal of the federal family and
9 medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6);
10 or

11 (b) July 1st of the year following the year in which amendments to
12 the federal family and medical leave act of 1993 (Act Feb. 5, 1993,
13 P.L. 103-3, 107 Stat. 6) take effect that provide less family leave
14 than is provided under RCW 49.78.030. In determining whether the
15 federal law provides the same or more leave, the department shall only
16 consider whether (i) the total period of leave allowed under the
17 amended federal law is twelve or more workweeks in a twenty-four month
18 period, and (ii) the types of leave authorized under the amended
19 federal law are similar to the types authorized (~~in this chapter~~)
20 under RCW 49.78.030.

21 (2)(a) The following provisions of this chapter are in effect:

22 (i) An employee's right under RCW 49.78.070(1)(b) to be returned to
23 a workplace within twenty miles of the employee's workplace when leave
24 commenced (~~shall remain in effect~~); and

25 (ii) An employee's right to leave under section 4 of this act.

26 (b) The family leave required by 29 U.S.C. (~~29-2612~~) Sec.
27 2612(a)(1)(A) and (B) of the federal family and medical leave act of
28 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) shall be in addition
29 to any leave for sickness or temporary disability because of pregnancy
30 or childbirth.

31 (c) The department shall enforce this subsection under RCW
32 49.78.140 through 49.78.190, except that an initial notice of
33 infraction shall state that the employer has thirty days in which to
34 take corrective action. No infraction or penalty may be assessed if
35 the employer complies with the requirements of the initial notice of
36 infraction.

1 **Sec. 3.** RCW 49.78.020 and 1996 c 178 s 14 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Child" means a biological or adopted child, or a stepchild,
6 living with the employee.

7 (2) "Department" means the department of labor and industries.

8 (3) "Employee" means a person other than an independent contractor
9 employed by an employer on a continuous basis for the previous fifty-
10 two weeks for at least thirty-five hours per week.

11 (4) Except as provided in section 4 of this act, "employer" means:

12 (a) Any person, firm, corporation, partnership, business trust, legal
13 representative, or other business entity which engages in any business,
14 industry, profession, or activity in this state and includes any unit
15 of local government including, but not limited to, a county, city,
16 town, municipal corporation, quasi-municipal corporation, or political
17 subdivision, which (i) employed a daily average of one hundred or more
18 employees during the last calendar quarter at the place where the
19 employee requesting leave reports for work, or (ii) employed a daily
20 average of one hundred or more employees during the last calendar
21 quarter within a twenty mile radius of the place where the employee
22 requesting leave reports for work, where the employer maintains a
23 central hiring location and customarily transfers employees among
24 workplaces; and (b) the state, state institutions, and state agencies.

25 (5) "Family leave" means leave from employment (~~(to care for a~~
26 ~~newborn or newly adopted child under the age of six or a child under~~
27 ~~eighteen years old with a terminal health condition,~~)) as provided in
28 RCW 49.78.030 and section 4 of this act.

29 (6) "Health care provider" means a person licensed as a physician
30 under chapter 18.71 RCW or an osteopathic physician and surgeon under
31 chapter 18.57 RCW.

32 (7) "Parent" means a biological or adoptive parent, or a
33 stepparent.

34 (8) "Reduced leave schedule" means leave scheduled for fewer than
35 an employee's usual number of hours or days per workweek.

36 (9) "Terminal health condition" means a condition caused by injury,
37 disease, or illness, that, within reasonable medical judgment, is

1 incurable and will produce death within the period of leave to which
2 the employee is entitled.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.78 RCW
4 to read as follows:

5 (1) In addition to other family leave to which the employee is
6 entitled under this chapter or federal law, an employee is entitled to
7 four hours of family leave during any calendar quarter to participate
8 in parent-teacher school conferences.

9 (2) An employer may require that the leave provided under this
10 section:

11 (a) Be unpaid; and

12 (b) Be taken after an employee first uses the employee's total
13 accumulated leave, not including leave under this chapter, to which the
14 employee is otherwise entitled. However, the employer is not required
15 to allow an employee to use the employee's other leave in place of the
16 leave provided under this section.

17 (3) An employer may require that a request for leave under this
18 section be supported by reasonable information or a certification for
19 verification purposes.

20 (4) An employee planning to take leave under this section must
21 provide the employer with written notice at least five days in advance
22 of the anticipated date or dates of leave, stating the dates during
23 which the employee intends to take the leave. If the employee fails to
24 give the required notice, the employer may deny that request for leave.

25 (5) As used in this section, "employer" means any person, firm,
26 corporation, partnership, business trust, legal representative, or
27 other business entity that engages in any business, industry,
28 profession, or activity in this state and employs eight or more
29 employees, the state, state institutions, state agencies, and any unit
30 of local government, including but not limited to, a county, city,
31 town, municipal corporation, quasi-municipal corporation, or political
32 subdivision.

33 NEW SECTION. **Sec. 5.** With respect to employees covered by a
34 collective bargaining agreement in effect on the effective date of this
35 section or an employee benefit plan with a stated year ending on or
36 after the effective date of this section, this act does not apply until

1 the later of: (1) The first day following expiration of the collective
2 bargaining agreement; or (2) the first day of the next plan year, as
3 applicable.

4 NEW SECTION. **Sec. 6.** RCW 49.78.005 is recodified as a section in
5 chapter 49.78 RCW, to be codified between RCW 49.78.010 and 49.78.020.

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