

# HOUSE BILL REPORT

## HB 1828

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**As Reported by House Committee On:**  
Labor & Workforce Development

**Title:** An act relating to leave enforcement under the family care act.

**Brief Description:** Regarding enforcement of family leave violations.

**Sponsors:** Representatives Dickerson and Sells.

**Brief History:**

**Committee Activity:**

Labor & Workforce Development: 2/15/11, 2/16/11 [DPS].

**Brief Summary of Substitute Bill**

- Requires the Department of Labor and Industries (Department) to investigate violations of the Family Care Law's anti-retaliation provision, but not the poster requirement.
- Authorizes the Department to impose monetary penalties for violations of the anti-retaliation provision, but not the poster requirement.
- Increases the monetary penalty from \$200 to \$500 for violations of any of the Family Care Law's provisions.

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### HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Kenney, Miloscia, Moeller and Ormsby.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Roberts, Taylor and Warnick.

**Staff:** Jill Reinmuth (786-7134).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

The state Family Care Law provides that, if employees are entitled to sick leave or other paid time off, employers must allow employees to use their choice of that leave to care for: children with health conditions that require treatment or supervision; or spouses, parents, parents-in-law, or grandparents who have serious health conditions or emergency conditions. It also requires employers to display a poster describing the employer's obligations and the employee's rights, and post the employer's leave policies in a conspicuous place. The Family Care Law prohibits employers from discharging or otherwise discriminating against employees who exercise (or attempt to exercise) their rights, or who file complaints, testify, or assist in related proceedings.

The Department of Labor and Industries (Department) is required to administer and investigate violations of the leave requirement and the poster requirement. The Department is not required to administer or investigate violations of the anti-retaliation provision.

The Department is authorized to issue a notice of infraction and impose a monetary penalty if it reasonably believes an employer has violated the leave requirement or the poster requirement. The penalty may not exceed \$200 per violation, or for an employer who repeatedly violates the requirements, \$1,000 per violation.

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**Summary of Substitute Bill:**

The Department of Labor and Industries (Department) is required to administer and investigate violations of the Family Care Law's anti-retaliation provision, but not the poster requirement. The Department is authorized to issue a notice of infraction, and impose a monetary penalty if it reasonably believes an employer has violated the anti-retaliation provision, but not the poster requirement.

The amount of the monetary penalty is increased from \$200 to \$500. The failure to comply with the leave requirement and the failure to comply with the anti-retaliation provision are separate violations.

**Substitute Bill Compared to Original Bill:**

The substitute bill deletes several provisions related to violations of the poster requirement, including one requiring investigation of such violations and another authorizing penalties for such violations. It also specifies that the failure to comply with the leave requirement and the failure to comply with the anti-retaliation provision are separate violations.

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**Appropriation:** None.**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The provision that prohibits retaliatory actions by employers against employees needs a little adjustment. Employers generally do not take retaliatory action against their employees. They recognize that employees have certain rights, and want employees to be with family members who are very ill. However, when there are retaliatory actions, the Department of Labor and Industries (Department) does not have authority to do anything about it.

(In support with concerns) The Department's concern is that the Legislature gave it authority to investigate certain allegations. There is a question about the Department's authority to enforce this provision because it is not specifically listed. This bill makes clear that the Department can enforce the law as originally intended. It also changes the fine to make it comparable to other leave-related and prevailing wage fines.

(Opposed) None.

**Persons Testifying:** (In support) Representative Dickerson, prime sponsor.

(In support with concerns) Tamara Jones, Department of Labor and Industries; and Marilyn Watkins, Economic Opportunity Institute.

**Persons Signed In To Testify But Not Testifying:** None.