

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2702

65th Legislature
2018 Regular Session

Passed by the House January 29, 2018
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate February 27, 2018
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2702** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2702

Passed Legislature - 2018 Regular Session

State of Washington

65th Legislature

2018 Regular Session

By Representatives Robinson, McCabe, and Springer; by request of
Employment Security Department

Read first time 01/12/18. Referred to Committee on Labor & Workplace
Standards.

1 AN ACT Relating to making technical corrections to the family and
2 medical leave program and making no substantive changes; and amending
3 RCW 50A.04.010, 50A.04.110, 50A.04.500, 50A.04.525, 50A.04.540,
4 50A.04.565, and 50A.04.600.

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

6 **Sec. 1.** RCW 50A.04.010 and 2017 3rd sp.s. c 5 s 2 are each
7 amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Child" includes a biological, adopted, or foster child, a
11 stepchild, or a child to whom the employee stands in loco parentis,
12 is a legal guardian, or is a de facto parent, regardless of age or
13 dependency status.

14 (2) "Commissioner" means the commissioner of the department or
15 the commissioner's designee.

16 (3) "Department" means the employment security department.

17 (4)(a) "Employee" means an individual who is in the employment of
18 an employer.

19 (b) "Employee" does not include employees of the United States of
20 America.

1 (5) "Employee's average weekly wage" means the quotient derived
2 by dividing the employee's total wages during the two quarters of the
3 employee's qualifying period in which total wages were highest by
4 twenty-six. If the result is not a multiple of one dollar, the
5 department must round the result to the next lower multiple of one
6 dollar.

7 (6)(a) "Employer" means: (i) Any individual or type of
8 organization, including any partnership, association, trust, estate,
9 joint stock company, insurance company, limited liability company, or
10 corporation, whether domestic or foreign, or the receiver, trustee in
11 bankruptcy, trustee, or the legal representative of a deceased
12 person, having any person in employment or, having become an
13 employer, has not ceased to be an employer as provided in this
14 chapter; (ii) the state, state institutions, and state agencies; and
15 (iii) any unit of local government including, but not limited to, a
16 county, city, town, municipal corporation, quasi-municipal
17 corporation, or political subdivision.

18 (b) "Employer" does not include the United States of America.

19 (7)(a) "Employment" means personal service, of whatever nature,
20 unlimited by the relationship of master and servant as known to the
21 common law or any other legal relationship performed for wages or
22 under any contract calling for the performance of personal services,
23 written or oral, express or implied. The term "employment" includes
24 an individual's entire service performed within or without or both
25 within and without this state, if:

26 (i) The service is localized in this state; or

27 (ii) The service is not localized in any state, but some of the
28 service is performed in this state; and

29 (A) The base of operations of the employee is in the state, or if
30 there is no base of operations, then the place from which such
31 service is directed or controlled is in this state; or

32 (B) The base of operations or place from which such service is
33 directed or controlled is not in any state in which some part of the
34 service is performed, but the individual's residence is in this
35 state.

36 (b) "Employment" does not include:

37 (i) Self-employed individuals;

38 (ii) Services for remuneration when it is shown to the
39 satisfaction of the commissioner that:

1 (A)(I) Such individual has been and will continue to be free from
2 control or direction over the performance of such service, both under
3 his or her contract of service and in fact; and

4 (II) Such service is either outside the usual course of business
5 for which such service is performed, or that such service is
6 performed outside of all the places of business of the enterprises
7 for which such service is performed; and

8 (III) Such individual is customarily engaged in an independently
9 established trade, occupation, profession, or business, of the same
10 nature as that involved in the contract of service; or

11 (B) As a separate alternative:

12 (I) Such individual has been and will continue to be free from
13 control or direction over the performance of such service, both under
14 his or her contract of service and in fact; and

15 (II) Such service is either outside the usual course of business
16 for which such service is performed, or that such service is
17 performed outside of all the places of business of the enterprises
18 for which such service is performed, or the individual is
19 responsible, both under the contract and in fact, for the costs of
20 the principal place of business from which the service is performed;
21 and

22 (III) Such individual is customarily engaged in an independently
23 established trade, occupation, profession, or business, of the same
24 nature as that involved in the contract of service, or such
25 individual has a principal place of business for the work the
26 individual is conducting that is eligible for a business deduction
27 for federal income tax purposes; and

28 (IV) On the effective date of the contract of service, such
29 individual is responsible for filing at the next applicable filing
30 period, both under the contract of service and in fact, a schedule of
31 expenses with the internal revenue service for the type of business
32 the individual is conducting; and

33 (V) On the effective date of the contract of service, or within a
34 reasonable period after the effective date of the contract, such
35 individual has established an account with the department of revenue,
36 and other state agencies as required by the particular case, for the
37 business the individual is conducting for the payment of all state
38 taxes normally paid by employers and businesses and has registered
39 for and received a unified business identifier number from the state
40 of Washington; and

1 (VI) On the effective date of the contract of service, such
2 individual is maintaining a separate set of books or records that
3 reflect all items of income and expenses of the business which the
4 individual is conducting; or

5 (iii) Services that require registration under chapter 18.27 RCW
6 or licensing under chapter 19.28 RCW rendered by an individual when:

7 (A) The individual has been and will continue to be free from
8 control or direction over the performance of the service, both under
9 the contract of service and in fact;

10 (B) The service is either outside the usual course of business
11 for which the service is performed, or the service is performed
12 outside of all the places of business of the enterprise for which the
13 service is performed, or the individual is responsible, both under
14 the contract and in fact, for the costs of the principal place of
15 business from which the service is performed;

16 (C) The individual is customarily engaged in an independently
17 established trade, occupation, profession, or business, of the same
18 nature as that involved in the contract of service, or the individual
19 has a principal place of business for the business the individual is
20 conducting that is eligible for a business deduction for federal
21 income tax purposes, other than that furnished by the employer for
22 which the business has contracted to furnish services;

23 (D) On the effective date of the contract of service, the
24 individual is responsible for filing at the next applicable filing
25 period, both under the contract of service and in fact, a schedule of
26 expenses with the internal revenue service for the type of business
27 the individual is conducting;

28 (E) On the effective date of the contract of service, or within a
29 reasonable period after the effective date of the contract, the
30 individual has an active and valid certificate of registration with
31 the department of revenue, and an active and valid account with any
32 other state agencies as required by the particular case, for the
33 business the individual is conducting for the payment of all state
34 taxes normally paid by employers and businesses and has registered
35 for and received a unified business identifier number from the state
36 of Washington;

37 (F) On the effective date of the contract of service, the
38 individual is maintaining a separate set of books or records that
39 reflect all items of income and expenses of the business that the
40 individual is conducting; and

1 (G) On the effective date of the contract of service, the
2 individual has a valid contractor registration pursuant to chapter
3 18.27 RCW or an electrical contractor license pursuant to chapter
4 19.28 RCW.

5 (8) "Employment benefits" means all benefits provided or made
6 available to employees by an employer, including group life
7 insurance, health insurance, disability insurance, sick leave, annual
8 leave, educational benefits, and pensions except benefits that are
9 provided by a practice or written policy of an employer or through an
10 employee benefit plan as defined in 29 U.S.C. Sec. 1002(3).

11 (9) "Family leave" means any leave taken by an employee from
12 work:

13 (a) To participate in providing care, including physical or
14 psychological care, for a family member of the employee made
15 necessary by a serious health condition of the family member;

16 (b) To bond with the employee's child during the first twelve
17 months after the child's birth, or the first twelve months after the
18 placement of a child under the age of eighteen with the employee; or

19 (c) Because of any qualifying exigency as permitted under the
20 federal family and medical leave act, 29 U.S.C. Sec. 2612(a)(1)
21 (~~(e)~~) (E) and 29 C.F.R. Sec. 825.126(a)(1) through (8), as they
22 existed on October 19, 2017, for family members as defined in
23 subsection (10) of this section.

24 (10) "Family member" means a child, grandchild, grandparent,
25 parent, sibling, or spouse of an employee.

26 (11) "Grandchild" means a child of the employee's child.

27 (12) "Grandparent" means a parent of the employee's parent.

28 (13) "Health care provider" means: (a) A person licensed as a
29 physician under chapter 18.71 RCW or an osteopathic physician and
30 surgeon under chapter 18.57 RCW; (b) a person licensed as an advanced
31 registered nurse practitioner under chapter 18.79 RCW; or (c) any
32 other person determined by the commissioner to be capable of
33 providing health care services.

34 (14) "Medical leave" means any leave taken by an employee from
35 work made necessary by the employee's own serious health condition.

36 (15) "Parent" means the biological, adoptive, de facto, or foster
37 parent, stepparent, or legal guardian of an employee or the
38 employee's spouse, or an individual who stood in loco parentis to an
39 employee when the employee was a child.

1 (16) "Period of incapacity" means an inability to work, attend
2 school, or perform other regular daily activities because of a
3 serious health condition, treatment of that condition or recovery
4 from it, or subsequent treatment in connection with such inpatient
5 care.

6 (17) "Premium" or "premiums" means the payments required by RCW
7 50A.04.115 and paid to the department for deposit in the family and
8 medical leave insurance account under RCW 50A.04.220.

9 (18) "Qualifying period" means the first four of the last five
10 completed calendar quarters or, if eligibility is not established,
11 the last four completed calendar quarters immediately preceding the
12 application for leave.

13 (19)(a) "Serious health condition" means an illness, injury,
14 impairment, or physical or mental condition that involves:

15 (i) Inpatient care in a hospital, hospice, or residential medical
16 care facility, including any period of incapacity; or

17 (ii) Continuing treatment by a health care provider. A serious
18 health condition involving continuing treatment by a health care
19 provider includes any one or more of the following:

20 (A) A period of incapacity of more than three consecutive, full
21 calendar days, and any subsequent treatment or period of incapacity
22 relating to the same condition, that also involves:

23 (I) Treatment two or more times, within thirty days of the first
24 day of incapacity, unless extenuating circumstances exist, by a
25 health care provider, by a nurse or physician's assistant under
26 direct supervision of a health care provider, or by a provider of
27 health care services, such as a physical therapist, under orders of,
28 or on referral by, a health care provider; or

29 (II) Treatment by a health care provider on at least one occasion
30 which results in a regimen of continuing treatment under the
31 supervision of the health care provider;

32 (B) Any period of incapacity due to pregnancy, or for prenatal
33 care;

34 (C) Any period of incapacity or treatment for such incapacity due
35 to a chronic serious health condition. A chronic serious health
36 condition is one which:

37 (I) Requires periodic visits, defined as at least twice a year,
38 for treatment by a health care provider, or by a nurse under direct
39 supervision of a health care provider;

1 (II) Continues over an extended period of time, including
2 recurring episodes of a single underlying condition; and

3 (III) May cause episodic rather than a continuing period of
4 incapacity, including asthma, diabetes, and epilepsy;

5 (D) A period of incapacity which is permanent or long term due to
6 a condition for which treatment may not be effective. The employee or
7 family member must be under the continuing supervision of, but need
8 not be receiving active treatment by, a health care provider,
9 including Alzheimer's, a severe stroke, or the terminal stages of a
10 disease; or

11 (E) Any period of absence to receive multiple treatments,
12 including any period of recovery from the treatments, by a health
13 care provider or by a provider of health care services under orders
14 of, or on referral by, a health care provider, either for: (I)
15 Restorative surgery after an accident or other injury; or (II) a
16 condition that would likely result in a period of incapacity of more
17 than three consecutive, full calendar days in the absence of medical
18 intervention or treatment, such as cancer, severe arthritis, or
19 kidney disease.

20 (b) The requirement in (a)(i) and (ii) of this subsection for
21 treatment by a health care provider means an in-person visit to a
22 health care provider. The first, or only, in-person treatment visit
23 must take place within seven days of the first day of incapacity.

24 (c) Whether additional treatment visits or a regimen of
25 continuing treatment is necessary within the thirty-day period shall
26 be determined by the health care provider.

27 (d) The term extenuating circumstances in (a)(ii)(A)(I) of this
28 subsection means circumstances beyond the employee's control that
29 prevent the follow-up visit from occurring as planned by the health
30 care provider. Whether a given set of circumstances are extenuating
31 depends on the facts. For example, extenuating circumstances exist if
32 a health care provider determines that a second in-person visit is
33 needed within the thirty-day period, but the health care provider
34 does not have any available appointments during that time period.

35 (e) Treatment for purposes of (a) of this subsection includes,
36 but is not limited to, examinations to determine if a serious health
37 condition exists and evaluations of the condition. Treatment does not
38 include routine physical examinations, eye examinations, or dental
39 examinations. Under (a)(ii)(A)(II) of this subsection, a regimen of
40 continuing treatment includes, but is not limited to, a course of

1 prescription medication, such as an antibiotic, or therapy requiring
2 special equipment to resolve or alleviate the health condition, such
3 as oxygen. A regimen of continuing treatment that includes taking
4 over-the-counter medications, such as aspirin, antihistamines, or
5 salves, or bed rest, drinking fluids, exercise, and other similar
6 activities that can be initiated without a visit to a health care
7 provider, is not, by itself, sufficient to constitute a regimen of
8 continuing treatment for purposes of this chapter.

9 (f) Conditions for which cosmetic treatments are administered,
10 such as most treatments for acne or plastic surgery, are not serious
11 health conditions unless inpatient hospital care is required or
12 unless complications develop. Ordinarily, unless complications arise,
13 the common cold, the flu, ear aches, upset stomach, minor ulcers,
14 headaches other than migraines, routine dental or orthodontia
15 problems, and periodontal disease are examples of conditions that are
16 not serious health conditions and do not qualify for leave under this
17 chapter. Restorative dental or plastic surgery after an injury or
18 removal of cancerous growths are serious health conditions provided
19 all the other conditions of this section are met. Mental illness
20 resulting from stress or allergies may be serious health conditions,
21 but only if all the conditions of this section are met.

22 (g)(i) Substance abuse may be a serious health condition if the
23 conditions of this section are met. However, leave may only be taken
24 for treatment for substance abuse by a health care provider or by a
25 licensed substance abuse treatment provider. Absence because of the
26 employee's use of the substance, rather than for treatment, does not
27 qualify for leave under this chapter.

28 (ii) Treatment for substance abuse does not prevent an employer
29 from taking employment action against an employee. The employer may
30 not take action against the employee because the employee has
31 exercised his or her right to take medical leave for treatment.
32 However, if the employer has an established policy, applied in a
33 nondiscriminatory manner that has been communicated to all employees,
34 that provides under certain circumstances an employee may be
35 terminated for substance abuse, pursuant to that policy the employee
36 may be terminated whether or not the employee is presently taking
37 medical leave. An employee may also take family leave to care for a
38 covered family member who is receiving treatment for substance abuse.
39 The employer may not take action against an employee who is providing

1 care for a covered family member receiving treatment for substance
2 abuse.

3 (h) Absences attributable to incapacity under (a)(ii)(B) or (C)
4 of this subsection qualify for leave under this chapter even though
5 the employee or the family member does not receive treatment from a
6 health care provider during the absence, and even if the absence does
7 not last more than three consecutive, full calendar days. For
8 example, an employee with asthma may be unable to report for work due
9 to the onset of an asthma attack or because the employee's health
10 care provider has advised the employee to stay home when the pollen
11 count exceeds a certain level. An employee who is pregnant may be
12 unable to report to work because of severe morning sickness.

13 (20) "Service is localized in this state" has the same meaning as
14 described in RCW 50.04.120.

15 (21) "Spouse" means a husband or wife, as the case may be, or
16 state registered domestic partner.

17 (22) "State average weekly wage" means the most recent average
18 weekly wage calculated under RCW 50.04.355 and available on January
19 1st of each year.

20 (23) "Typical workweek hours" means:

21 (a) For an hourly employee, the average number of hours worked
22 per week by an employee since the beginning of the qualifying period;
23 and

24 (b) Forty hours for a salaried employee, regardless of the number
25 of hours the salaried employee typically works.

26 (24) "Wage" means the same as "wages" under RCW 50.04.320(2),
27 except that: (a) The term employment as used in RCW 50.04.320(2) is
28 defined in this chapter; and (b) the maximum wages subject to a
29 premium assessment are those wages as set by the commissioner under
30 RCW 50A.04.115(4). "Wages" for purposes of elective coverage under
31 RCW ((50A.04.120)) 50A.04.105 has the meaning as defined by rule.

32 **Sec. 2.** RCW 50A.04.110 and 2017 3rd sp.s. c 5 s 11 are each
33 amended to read as follows:

34 A federally recognized tribe may elect coverage under RCW
35 ((50A.04.120)) 50A.04.105. The department shall adopt rules to
36 implement this section.

37 **Sec. 3.** RCW 50A.04.500 and 2017 3rd sp.s. c 5 s 34 are each
38 amended to read as follows:

1 (1) Any aggrieved person may file an appeal from any
2 determination or redetermination with the commissioner within thirty
3 days after the date of notification or mailing, whichever is earlier,
4 of such determination or redetermination to the person's last known
5 address. If an appeal with respect to any determination is pending as
6 of the date when a redetermination is issued, such appeal, unless
7 withdrawn, shall be treated as an appeal from such redetermination.

8 (2) Any appeal from a determination of denial of benefits shall
9 be deemed to be an appeal as to all weeks subsequent to the effective
10 date of the denial for which benefits have already been denied. If no
11 appeal is taken from any determination, or redetermination, within
12 the time allowed by the provisions of this section for appeal, the
13 determination or redetermination, as the case may be, shall be
14 conclusively deemed to be correct except as provided in respect to
15 reconsideration by the commissioner of any determination.

16 (3) Upon receipt of a notice of appeal, the commissioner shall
17 request the assignment of an administrative law judge (~~in accordance~~
18 ~~with~~) under chapter 34.12 RCW to conduct a hearing in accordance
19 with chapter 34.05 RCW and issue a proposed order.

20 **Sec. 4.** RCW 50A.04.525 and 2017 3rd sp.s. c 5 s 37 are each
21 amended to read as follows:

22 (1) In any proceeding before an administrative law judge
23 involving a dispute of an employee's initial determination, claim for
24 waiting period credit or claim for benefits, all matters and
25 provisions of this chapter relating to the employee's initial
26 determination, or right to receive such credit or benefits for the
27 period in question, shall be deemed to be in issue irrespective of
28 the particular ground or grounds set forth in the notice of appeal in
29 single employee cases.

30 (2) In any proceeding before an administrative law judge
31 involving an employee's right to benefits, all parties shall be
32 afforded an opportunity for hearing after not less than seven days'
33 notice in accordance with RCW 34.05.434.

34 (3) In any proceeding involving an appeal relating to benefit
35 determinations or benefit claims, the administrative law judge, after
36 affording the parties reasonable opportunity for fair hearing, shall
37 render its decision affirming, modifying, or setting aside the
38 determination or decisions of the department. The parties shall be
39 duly notified of such decision together with the reasons, which shall

1 be deemed to be the final decision unless, within thirty days after
2 the date of notification or mailing, whichever is the earlier, of
3 such decision, further appeal is perfected pursuant to RCW
4 (~~50A.04.530~~) 50A.04.535.

5 **Sec. 5.** RCW 50A.04.540 and 2017 3rd sp.s. c 5 s 42 are each
6 amended to read as follows:

7 After having acquired jurisdiction for review, the commissioner
8 shall review the proceedings in question. Prior to rendering a
9 decision, the commissioner may order the taking of additional
10 evidence by an administrative law judge to be made a part of the
11 record in the case. Upon the basis of evidence submitted to the
12 administrative law judge and such additional evidence as the
13 commissioner may order to be taken, the commissioner shall render a
14 decision in writing affirming, modifying, or setting aside the
15 decision of the administrative law judge. Alternatively, the
16 commissioner may order further proceedings to be held before the
17 administrative law judge, upon completion of which the administrative
18 law judge shall issue a new decision in writing affirming, modifying,
19 or setting aside (~~its~~) the previous decision of the administrative
20 law judge. The new decision of the administrative law judge may be
21 appealed as provided under RCW (~~50A.04.530~~) 50A.04.535. The
22 commissioner shall mail the decision of the commissioner to the
23 interested parties at their last known addresses.

24 **Sec. 6.** RCW 50A.04.565 and 2017 3rd sp.s. c 5 s 44 are each
25 amended to read as follows:

26 Judicial review of a decision of the commissioner involving the
27 review of a decision of an administrative law judge under this
28 chapter may be had only in accordance with the procedural
29 requirements of RCW (~~34.05.570~~) 34.05.452.

30 **Sec. 7.** RCW 50A.04.600 and 2017 3rd sp.s. c 5 s 14 are each
31 amended to read as follows:

32 (1) An employer may apply to the commissioner for approval of a
33 voluntary plan for the payment of either family leave benefits or
34 medical leave benefits, or both. The application must be submitted on
35 a form and in the manner as prescribed by the commissioner in rule.
36 The fee for the department's review of each application for approval
37 of a voluntary plan is two hundred fifty dollars.

1 (2) The benefits payable as indemnification for loss of wages
2 under any voluntary plan must be separately stated and designated
3 separately and distinctly in the plan from other benefits, if any.

4 (3) Neither an employee nor his or her employer are liable for
5 any premiums for benefits covered by an approved voluntary plan.

6 (4) Except as provided in this section, an employee covered by an
7 approved voluntary plan at the commencement of a period of family
8 leave or a medical leave benefit period is not entitled to benefits
9 from the state program. Benefits payable to that employee is the
10 liability of the approved voluntary plan under which the employee was
11 covered at the commencement of the family leave or medical leave
12 benefit period, regardless of any subsequent serious health condition
13 or family leave which may occur during the benefit period. The
14 commissioner must adopt rules to allow benefits or prevent
15 duplication of benefits to employees simultaneously covered by one or
16 more approved voluntary plans and the state program.

17 (5) The commissioner must approve any voluntary plan as to which
18 the commissioner finds that there is at least one employee in
19 employment and all of the following exist:

20 (a) The benefits afforded to the employees must be at least
21 equivalent to the benefits the employees are entitled to as part of
22 the state's family and medical leave program, including but not
23 limited to the duration of leave. The employer must offer at least
24 one-half of the length of leave as provided in RCW 50A.04.020(~~(+2)~~)
25 (3) with pay and provide a monetary payment in an amount equal to or
26 higher than the total amount of monetary benefits the employee would
27 be entitled to receive as part of the state-run program. The employer
28 may offer the same duration of leave and monetary benefits as offered
29 under the state program.

30 (b) The sick leave an employee is entitled to under RCW 49.46.210
31 is in addition to the employer's provided benefits and is in addition
32 to any family and medical leave benefits.

33 (c) The plan is available to all of the eligible employees of the
34 employer employed in this state, including future employees.

35 (d) The employer has agreed to make the payroll deductions
36 required, if any, and transmit the proceeds to the department for any
37 portions not collected for the voluntary plan.

38 (e) The plan will be in effect for a period of not less than one
39 year and, thereafter, continuously unless the commissioner finds that
40 the employer has given notice of withdrawal from the plan in a manner

1 specified by the commissioner in rule. The plan may be withdrawn by
2 the employer on the date of any law increasing the benefit amounts or
3 the date of any change in the rate of employee premiums, if notice of
4 the withdrawal from the plan is transmitted to the commissioner not
5 less than thirty days prior to the date of that law or change. If the
6 plan is not withdrawn, it must be amended to conform to provide the
7 increased benefit amount or change in the rate of the employee's
8 premium on the date of the increase or change.

9 (f) The amount of payroll deductions from the wages of an
10 employee in effect for any voluntary plan may not exceed the maximum
11 payroll deduction for that employee as authorized under RCW
12 50A.04.115. The deductions may not be increased on other than an
13 anniversary of the effective date of the plan, except to the extent
14 that any increase in the deductions from the wages of an employee do
15 not exceed the maximum rate authorized under the state program.

16 (g) The voluntary plan provides that an employee of an employer
17 with a voluntary plan for either family leave or medical leave, or
18 both, is eligible for the plan benefits if the employee meets the
19 requirements of RCW 50A.04.015 and has worked at least three hundred
20 forty hours for the employer during the twelve months immediately
21 preceding the date leave will commence.

22 (h) The voluntary plan provides that an employee of an employer
23 with a voluntary plan for either family leave or medical leave, or
24 both, who takes leave under the voluntary plan is entitled to the
25 employment protection provisions contained in RCW 50A.04.025 if the
26 employee has worked for the employer for at least nine months and
27 nine hundred sixty-five hours during the twelve months immediately
28 preceding the date leave will commence.

29 (i) The voluntary plan provides that the employer maintains the
30 employee's existing health benefits as provided under RCW 50A.04.245.

31 (6)(a) The department must conduct a review of the expenses
32 incurred in association with the administration of the voluntary
33 plans during the first three years after implementation and report
34 its findings to the legislature.

35 (b) The review must include an analysis of the adequacy of the
36 fee in subsection (1) of this section to cover the department's
37 administrative expenses related to reviewing and approving or denying
38 the applications and administering appeals related to voluntary
39 plans. The review must include an estimate of the next year's
40 projected administrative costs related to the voluntary plans. The

1 legislature shall adjust the fee in subsection (1) of this section as
2 needed to ensure the department's administrative expenses related to
3 the voluntary plans are covered by the fee.

4 (c) If the current receipts from the fee in subsection (1) of
5 this section are inadequate to cover the department's administrative
6 expenses related to the voluntary plans, the department may use funds
7 from the family and medical leave insurance account under RCW
8 50A.04.220 to pay for these expenses.

--- END ---