
**Labor & Workplace Standards
Committee**

HB 2614

Brief Description: Concerning paid family and medical leave.

Sponsors: Representatives Robinson, Doglio, Sells, Lekanoff, Tharinger and Ormsby; by request of Employment Security Department.

Brief Summary of Bill

- Exempts casual labor from the types of covered employment.
- Provides for a private right of action and specifies other enforcement provisions.
- Makes changes regarding waiting periods, conditional waivers, supplementation of benefits, and other matters.

Hearing Date: 1/20/20

Staff: Lily Smith (786-7175).

Background:

In 2017, a Paid Family and Medical Leave (PFML) program was enacted to provide partial wage replacement to employees on leave for specified family and medical reasons. Employees are eligible for benefits after working at least 820 hours in a qualifying period. Premium collection began January 1, 2019, and benefits are payable beginning January 1, 2020. The Employment Security Department (Department) administers the program.

The PFML program includes provisions regarding premiums, coverage, the use, duration, and amount of benefits, and an employer option of a voluntary plan, among other provisions. The following are included in the program provisions:

- a required waiting period before benefits are payable, except for the birth or placement of a child;

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- a process for requesting a conditional waiver from both employer and employee premiums if the employee works outside the state and is not expected to work 820 hours in the state in the qualifying period;
- an employer's ability to offer supplemental benefit payments, such as vacation, sick, or other paid time off, to an employee on leave;
- a requirement that the Department must withhold child support from a benefit payment if it determines the employee owes child support;
- employee disqualification from PFML benefits if they are eligible for workers' compensation or unemployment insurance wage benefits;
- an employer's ability to opt out of the state plan by having a voluntary plan that meets specified standards; and
- processes and parameters for enforcement of the program by the Department, including investigation of complaints, and potential civil penalties and damages.

Summary of Bill:

Time Periods.

Modifies time periods associated with PFML benefits as follows:

- specifies the beginning of the waiting period, and that paid time off may be taken during that period; and
- removes the limitation that successive related periods of PFML are considered one period only when separated by less than four months.

Conditional Waivers.

Modifies the requirements for a conditional waiver of PFML premiums as follows:

- requires an employee to primarily perform work, rather than be physically based, outside the state;
- specifies the qualifying period for the limit on expected in-state employment to be within a period of four consecutive completed quarters;
- requires signatures to attest to the specific conditions of the waiver; and
- provides that a conditional waiver may expire if any of the conditions of the waiver are not met.

Supplemental Benefit Payments.

Specifies that supplemental benefit payments will not reduce a PFML benefit amount.

Child Support Obligations.

Specifies the child support obligations that would lead to a PFML benefit deduction. Adds PFML benefits to the types of payments from the Department that trigger certain obligations for child support related payroll deductions.

Interaction With Other Benefits.

Specifies the other wage replacement benefits that disqualify an employee from receipt of PFML, and that actual receipt of those benefits, not eligibility, creates disqualification.

Voluntary Plan Approvals.

Clarifies employer obligations for remittance of premiums in instances of termination or withdrawal of a voluntary plan.

Enforcement.

Makes the following changes to enforcement of the PFML program:

- limits the Department investigative authority to violations within the previous three years from the date of a complaint;
- provides more specificity regarding the applicable process when damages or penalties are due;
- provides for a private right of action as an alternative to administrative enforcement by the Department;
- provides for powers associated with the Department's quasi-judicial duties, including the power to administer oaths, take depositions, and issue subpoenas; and
- specifies that any party may file an appeal.

Definitions.

Makes the following changes to definitions within the PFML program:

- adds a definition for casual work and exempts casual labor from the definition of employment;
- includes a child's spouse in the definition of child;
- modifies the definition of typical work week hours;
- adds a definition for paid time off; and
- adds a definition for supplemental benefit payments.

Appropriation: None.

Fiscal Note: Requested on January 14, 2020.

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