

FINAL BILL REPORT

SHB 2614

C 125 L 20
Synopsis as Enacted

Brief Description: Concerning paid family and medical leave.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Robinson, Doglio, Sells, Lekanoff, Tharinger and Ormsby; by request of Employment Security Department).

House Committee on Labor & Workplace Standards
House Committee on Appropriations
Senate Committee on Labor & Commerce

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 PFML 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;
- 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

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.

- processes and parameters for enforcement of the PFML program by the Department, including investigation of complaints, and potential civil penalties and damages.

Summary:

Time Periods.

The time periods associated with PFML benefits are modified as follows:

- the beginning of the waiting period is specified, and that paid time off may be taken during that period;
- military exigency leave is exempted from the waiting requirement; and
- the limitation that successive related periods of PFML are considered one period only when separated by less than four months is removed.

Conditional Waivers.

The requirements for a conditional waiver of PFML premiums are modified as follows:

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

Supplemental Benefit Payments.

Supplemental benefit payments are specified to not reduce a PFML benefit amount.

Child Support Obligations.

Child support obligations that would lead to a PFML benefit deduction are specified.

PFML benefits are added to the types of payments from the Department that trigger certain obligations for child support related payroll deductions.

Interaction With Other Benefits.

Other wage replacement benefits that disqualify an employee from receipt of PFML benefits are specified, as well as that actual receipt of those benefits, not eligibility, creates disqualification.

Voluntary Plan Approvals.

Employer obligations for remittance of premiums in instances of termination or withdrawal of a voluntary plan are clarified.

Enforcement.

The following changes are made to enforcement of the PFML program:

- the Department's investigative authority is limited to violations within the previous three years from the date of a complaint;
- more specificity is provided regarding the applicable process when damages are due;
- a private right of action is provided as an alternative to administrative enforcement by the Department;

- powers associated with the Department's quasi-judicial duties are provided, including the power to administer oaths, take depositions, and issue subpoenas; and
- any party is allowed to file an appeal.

Definitions.

The following changes are made to definitions within the PFML program:

- a definition for "casual labor" is added, and casual labor is exempted from the definition of employment;
- a child's spouse is included in the definition of "child;"
- the definition of "typical work week hours" is modified;
- a definition for "paid time off" is added; and
- a definition for "supplemental benefit payments" is added.

Votes on Final Passage:

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| House | 60 | 37 |
| Senate | 38 | 10 |

Effective: March 25, 2020 (Section 1)
June 11, 2020