

HOUSE BILL REPORT

HB 1991

As Reported by House Committee On:
Labor & Workplace Standards

Title: An act relating to paid sick leave.

Brief Description: Concerning paid sick leave.

Sponsors: Representatives Fosse, Berry, Ramel, Reed, Ormsby, Ryu, Callan, Kloba, Doglio, Chopp, Paul, Berg, Lekanoff, Nance, Riccelli, Cortes and Pollet.

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/17/24, 1/26/24 [DPS].

Brief Summary of Substitute Bill

- Expands the definition of "family member" in Washington's Paid Sick Leave Law, allowing employees to use paid sick leave to care for additional specified persons experiencing a mental or physical illness, injury, or health condition, or needing medical diagnosis, treatment, or preventative care.
- Allows an employee to use paid sick leave when the employee's child's school or place of care has been closed due to a public emergency.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Berry, Chair; Fosse, Vice Chair; Schmidt, Ranking Minority Member; Bronoske, Doglio, Ormsby, Ortiz-Self, Rude and Ybarra.

Staff: Kelly Leonard (786-7147).

Background:

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

Washington's Paid Sick Leave Law, enacted by Initiative No. 1433 in 2016, requires employers to provide paid sick leave to employees.

Employees must accrue at least one hour of paid sick leave for every 40 hours worked. Paid sick leave must be paid at the employee's normal hourly rate of compensation. An employee is entitled to use accrued paid sick leave beginning on the ninetieth calendar day after the commencement of his or her employment. If an employee does not use all of his or her available paid sick leave by the end of the accrual year, the employer must carry over balances of 40 hours or less to the next year. Employers may also opt to provide more generous paid leave policies and permit use of paid sick leave for additional purposes.

An employee may use paid sick leave for the following reasons:

- for the employee's mental or physical illness, injury, or health condition or for the employee to seek medical diagnosis, care, or treatment or other preventive medical care;
- for the employee to provide care for a family member with a mental or physical illness, injury, or health condition, or to assist with the care of a family member needing medical diagnosis, care, or treatment or other preventive medical care;
- when the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason; or
- the employee is absent for reasons qualifying the employee for leave under the Domestic Violence Leave Act.

For the purposes of paid sick leave taken to provide care for family members, as described above, the term "family member" includes an employee's:

- child (a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis is a legal guardian, or is a de facto parent, regardless of age or dependency status);
- parent (a biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child);
- spouse;
- registered domestic partner;
- grandparent;
- grandchild; or
- sibling.

An employer may require employees to give reasonable notices of absences. For absences exceeding three days, an employer may require verification that an employee's use of paid sick leave is for an authorized purpose. If an employer requires verification, verification must be provided to the employer within a reasonable time period during or after the leave. An employer's requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements

otherwise established by law.

State law requires transportation network companies (TNCs) to provide drivers paid sick time at a comparable rate and for comparable reasons to what is required for employees. This includes paid sick leave of one hour for every 40 hours of passenger platform time worked. Drivers are eligible to: (1) accrue paid sick time upon recording 90 hours of passenger platform time on the TNC's platform; (2) carry over up to 40 hours of unused paid sick time to the next year; and (3) use sick time in increments of four hours or more.

Summary of Substitute Bill:

The definition of "family member" is expanded to allow for employees to use paid sick leave to provide care for additional specified persons due to a mental or physical illness, injury, or health condition, or to assist those specified persons who need medical diagnosis, care, or treatment or other preventive medical care. The definition is expanded to include:

- any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care; and
- an employee's child's spouse.

Definitions are added for grandchild (a child of the employee's child, based on the definition of child in underlying law), and grandparent (a parent of the employee's parent, based on the definition of parent in underlying law).

An employee may also use paid sick leave when his or her child's school or place of care has been closed due to a public emergency.

Comparable changes are made to the paid sick time laws for TNC drivers, allowing those drivers to use paid sick time under the same circumstances.

Substitute Bill Compared to Original Bill:

The substitute bill removes the provision allowing an employee or transportation network company driver to use paid sick leave or paid sick time when his or her child's school or place of care has been closed due to weather.

The substitute bill requires The Department of Labor and Industries to develop materials and conduct outreach to inform individuals and businesses of the provisions in the bill. The effective date of the bill is changed from 90 days after the adjournment of session to January 1, 2025.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 29, 2024.

Effective Date of Substitute Bill: The bill takes effect on January 1, 2025.

Staff Summary of Public Testimony:

(In support) The bill has a narrow scope but addresses a critical gap in the state paid sick leave laws. The bill aligns the definition of "family member" with what is currently in place for the Paid Family and Medical Leave Act (PFMLA). This change is important for recognizing nontraditional families and chosen families. People often rely on their chosen families and their friends and neighbors to care for them. This is particularly the case for communities of color and the LGBTQ community. The bill will allow persons to take sick leave to care for one another, even if they do not have a traditional family relationship. Working families should not have to suffer just because they do not live in a traditional family environment. It is also important to allow for use of paid sick leave during school closures.

(Opposed) The paid sick leave laws with the PFMLA are different. The PFMLA is administered by the Employment Security Department (ESD). The ESD can determine whether a particular relationship meets the definition. In contrast, employers oversee the use of paid sick leave. Employers are not appropriately situated to determine which relationships have an expectation of care. The expansion should be limited to persons who live with the employee.

Many businesses continue to operate during school closures caused by significant weather events and public emergencies, like grocers. School closures are often unpredictable and cannot be anticipated by employers and employees. These businesses need to be able to operate, and they need the flexibility to work with their employees on facilitating coverage in order to keep their doors open.

(Other) The effective date of the bill should be delayed in order to allow The Department of Labor and Industries (L&I) to conduct rulemaking and implement the changes. The bill should also be amended to require L&I to do outreach and education. Employers and employees need to be notified of the changes.

Persons Testifying: (In support) Representative Mary Fosse, prime sponsor; Rebekah Gardea, QLaw Foundation of Washington; Sybill Hyppolite, Washington State Labor Council American Federation of Labor and Congress of Industrial Organizations; Maggie Humphreys, MomsRising; and Daniel Goodman, Washington State Association for Justice.

(Opposed) Bruce Beckett, Washington Retail Association; Carolyn Logue, Washington Food Industry Association; and Julia Gorton, Washington Hospitality Association.

(Other) Tammy Fellin, Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: None.