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**SENATE BILL 5539**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Alvarado, Stanford, Frame, Nobles, Riccelli, Slatter, Trudeau, Valdez, and C. Wilson

AN ACT Relating to expanding protections for workers in the state paid family and medical leave program; amending RCW 50A.05.020, 50A.15.020, 50A.20.010, 50A.20.020, 50A.30.010, 50A.35.010, and 50A.35.020; and providing an effective date.

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

**Sec.**  RCW 50A.05.020 and 2019 c 13 s 30 are each amended to read as follows:

(1) The department shall establish and administer the family and medical leave program and pay family and medical leave benefits as specified in this title. The department shall adopt government efficiencies to improve administration and reduce costs. These efficiencies shall include, to the extent feasible, combined reporting and payment, with a single return, of premiums under this title and contributions under chapter 50.24 RCW.

(2) The department shall establish procedures and forms for filing applications for benefits under this title. The department shall notify the employer within five business days of an application being filed.

(3) The department shall use information sharing and integration technology to facilitate the disclosure of relevant information or records by the department, so long as an employee consents to the disclosure as required under RCW 50A.15.040.

(4) Information contained in the files and records pertaining to an employee under this chapter are confidential and not open to public inspection, other than to public employees in the performance of their official duties, except as provided in chapter 50A.25 RCW.

(5) The department shall develop and implement an outreach program to ensure that employees who may be qualified to receive family and medical leave benefits under this title are made aware of these benefits. Outreach information shall explain, in an easy to understand format, eligibility requirements, the application process, weekly benefit amounts, maximum benefits payable, notice and certification requirements, reinstatement and nondiscrimination rights, confidentiality, voluntary plans, and the relationship between employment protection, leave from employment, and wage replacement benefits under this title and other laws, collective bargaining agreements, and employer policies. Outreach information shall be available in English and other primary languages as defined in RCW 74.04.025.

(6)(a) The department shall conduct regular outreach to employers regarding employer responsibilities under this title, which must include but is not limited to providing information on premium collection under chapter 50A.10 RCW, notice requirements under chapter 50A.20 RCW, and employment protection under chapter 50A.35 RCW.

(b) The department is authorized to inspect and audit employer files and records relating to the family and medical leave program, including employer voluntary plans. The department shall conduct periodic audits of employer files and records for the purposes of assisting with and otherwise enforcing compliance with this title.

**Sec.**  RCW 50A.15.020 and 2022 c 233 s 3 are each amended to read as follows:

(1) Beginning January 1, 2020, family and medical leave are available and benefits are payable to a qualified employee under this section.

(a) Following a waiting period consisting of the first seven consecutive calendar days, benefits are payable when family or medical leave is required. However, no waiting period is required for leave for the birth or placement of a child, or for leave because of any qualifying exigency as defined under RCW 50A.05.010(10)(c). The waiting period begins the previous Sunday of the week when an otherwise eligible employee takes leave for the minimum claim duration under subsection (2)(c) of this section. Eligible employees may satisfy the waiting period requirement while simultaneously receiving paid time off for any part of the waiting period.

(b) Benefits may continue during the continuance of the need for family or medical leave, subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in this title.

(2) The weekly benefit shall be prorated by the percentage of hours on leave compared to the number of hours provided as the typical workweek hours as defined in RCW 50A.05.010.

(a) The benefits in this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar.

(b) Hours on leave claimed for benefits under this title, if not a multiple of one hour, shall be reduced to the next lower multiple of one hour.

(c) The minimum claim duration payment is for ((~~eight~~)) four consecutive hours of leave.

(3)(a) The maximum duration of paid family leave may not exceed ((~~twelve~~)) 12 times the typical workweek hours during a period of ((~~fifty-two~~)) 52 consecutive calendar weeks.

(b) The maximum duration of paid medical leave may not exceed ((~~twelve~~)) 12 times the typical workweek hours during a period of ((~~fifty-two~~)) 52 consecutive calendar weeks. This leave may be extended an additional two times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(c) An employee is not entitled to paid family and medical leave benefits under this title that exceeds a combined total of ((~~sixteen~~)) 16 times the typical workweek hours. The combined total of family and medical leave may be extended to ((~~eighteen~~)) 18 times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(4)(a) Any paid leave benefits under this chapter used in the postnatal period by an employee eligible for benefits under RCW 50A.05.010(23)(a)(ii)(B) must be medical leave, subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in this title, unless the employee chooses to use family leave during the postnatal period.

(b) Certification of a serious health condition is not required for paid leave benefits used in the postnatal period by an employee eligible for benefits under RCW 50A.05.010(23)(a)(ii)(B).

(5) The weekly benefit for family and medical leave shall be determined as follows: If the employee's average weekly wage is: (a) Equal to or less than one-half of the state average weekly wage, then the benefit amount is equal to ((~~ninety~~)) 90 percent of the employee's average weekly wage; or (b) greater than one-half of the state average weekly wage, then the benefit amount is the sum of: (i) Ninety percent of one-half of the state average weekly wage; and (ii) ((~~fifty~~)) 50 percent of the difference of the employee's average weekly wage and one-half of the state average weekly wage.

(6)(a) The maximum weekly benefit for family and medical leave that occurs on or after January 1, 2020, shall be ((~~one thousand dollars~~)) $1,000. By September 30, 2020, and by each subsequent September 30th, the commissioner shall adjust the maximum weekly benefit amount to ((~~ninety~~)) 90 percent of the state average weekly wage. The adjusted maximum weekly benefit amount takes effect on the following January 1st.

(b) The minimum weekly benefit shall not be less than ((~~one hundred dollars~~)) $100 per week except that if the employee's average weekly wage at the time of family or medical leave is less than ((~~one hundred dollars~~)) $100 per week, the weekly benefit shall be the employee's full wage.

**Sec.**  RCW 50A.20.010 and 2019 c 13 s 12 are each amended to read as follows:

(1) Whenever an employee of an employer who is qualified for benefits under this title is absent from work to provide family leave, or take medical leave for more than seven consecutive days, the employer shall provide the employee with a written statement of the employee's rights under this title in a form prescribed by the commissioner. The statement must be provided to the employee within five business days after the employee's seventh consecutive day of absence due to family or medical leave, or within five business days after the employer has received notice that the employee's absence is due to family or medical leave, whichever is later.

(2) The commissioner shall develop the written statement of employee rights to be distributed by an employer under this section. At a minimum, the statement must explain, in an easy to understand format, eligibility requirements, possible weekly benefits, application processes, employment protection rights, and nondiscrimination rights, and direct the employee to appropriate contacts and portals for more information.

**Sec.**  RCW 50A.20.020 and 2019 c 13 s 13 are each amended to read as follows:

Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the commissioner, setting forth excerpts from, or summaries of, the pertinent provisions of this title, including, but not limited to: Eligibility requirements, possible weekly benefits, application processes, employment protection rights, nondiscrimination rights, and other protections, and information pertaining to the filing of a complaint. Any employer that willfully violates this section may be subject to a civil penalty of not more than ((~~one hundred dollars~~)) $100 for each separate offense. Any penalties collected by the department under this section shall be deposited into the family and medical leave enforcement account.

**Sec.**  RCW 50A.30.010 and 2020 c 125 s 9 are each amended to read as follows:

(1) An employer may apply to the commissioner for approval of a voluntary plan for the payment of either family leave benefits or medical leave benefits, or both. The application must be submitted on a form and in the manner as prescribed by the commissioner in rule. The fee for the department's review of each application for approval of a voluntary plan is ((~~two hundred fifty dollars~~)) $250.

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

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

(4) An employee may only receive payment of benefits for family leave, medical leave, or both from one approved plan at a time. An employee who qualifies for benefits and is simultaneously covered by more than one plan under this title will receive benefits under the plan for which the employee has worked the most hours during the employee's qualifying period. The commissioner must adopt rules to allow benefits or prevent duplication of benefits to employees simultaneously covered by one or more approved voluntary plans and the state program.

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

(a) The benefits afforded to the employees must be at least equivalent to the benefits the employees are entitled to as part of the state's family and medical leave program, including but not limited to the duration of leave. The employer must offer at least one-half of the length of leave as provided in RCW 50A.15.020(3) with pay and provide a monetary payment in an amount equal to or higher than the total amount of monetary benefits the employee would be entitled to receive as part of the state-run program. The employer may offer the same duration of leave and monetary benefits as offered under the state program.

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

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

(d) The employer has agreed to make all required payroll deductions, including that:

(i) In the case of plan termination or withdrawal, the employer must remit to the department all required moneys under RCW 50A.30.045 and 50A.30.065(3); and

(ii) If the employer has an approved voluntary plan for either medical leave or family leave but not both, the employer is still obligated to remit to the department premiums owed to the state plan for the portions not covered by the employer's approved voluntary plan.

(e) The plan will be in effect for a period of not less than one year and, thereafter, continuously unless the commissioner finds that the employer has given notice of withdrawal from the plan in a manner specified by the commissioner in rule. The plan may be withdrawn by the employer on the date of any law increasing the benefit amounts or the date of any change in the rate of employee premiums, if notice of the withdrawal from the plan is transmitted to the commissioner not less than ((~~thirty~~)) 30 days prior to the date of that law or change. If the plan is not withdrawn, it must be amended to conform to provide the increased benefit amount or change in the rate of the employee's premium on the date of the increase or change.

(f) The amount of payroll deductions from the wages of an employee in effect for any voluntary plan may not exceed the maximum payroll deduction for that employee as authorized under RCW 50A.10.030. The deductions may not be increased on other than an anniversary of the effective date of the plan, except to the extent that any increase in the deductions from the wages of an employee do not exceed the maximum rate authorized under the state program.

(g) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, is eligible for the plan benefits if the employee meets the requirements of RCW 50A.15.010 and has worked at least ((~~three hundred forty~~)) 340 hours for the employer during the ((~~twelve~~)) 12 months immediately preceding the date leave will commence.

(h) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, who takes leave under the voluntary plan is entitled to ((~~the~~)) employment protection ((~~provisions~~)) in accordance with the requirements contained in RCW 50A.35.010 ((~~if the employee has worked for the employer for at least nine months and nine hundred sixty-five hours during the twelve months immediately preceding the date leave will commence~~)).

(i) The voluntary plan provides that the employer maintains the employee's existing health benefits as provided under RCW 50A.35.020.

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

(b) The review must include an analysis of the adequacy of the fee in subsection (1) of this section to cover the department's administrative expenses related to reviewing and approving or denying the applications and administering appeals related to voluntary plans. The review must include an estimate of the next year's projected administrative costs related to the voluntary plans. The legislature shall adjust the fee in subsection (1) of this section as needed to ensure the department's administrative expenses related to the voluntary plans are covered by the fee.

(c) If the current receipts from the fee in subsection (1) of this section are inadequate to cover the department's administrative expenses related to the voluntary plans, the department may use funds from the family and medical leave insurance account under RCW 50A.05.070 to pay for these expenses.

**Sec.**  RCW 50A.35.010 and 2019 c 13 s 4 are each amended to read as follows:

(1)(a) Except as provided in RCW 50A.30.010(5) and subsections (6) and (7) of this section, ((~~any~~)) an employee ((~~who takes family~~)) is entitled to employment restoration upon returning from:

(i) Family or medical leave under this title, regardless of whether the employee also qualifies for and receives concurrent leave under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on the effective date of this section), as provided under RCW 50A.15.110; or

(ii) Unpaid leave protected by the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on the effective date of this section) during a period in which the employee was eligible for benefits under this title but did not apply for and receive those benefits, excluding unpaid sick leave or temporary disability taken for pregnancy or childbirth under chapter 49.60 RCW or as an accommodation under RCW 43.10.005, subject to the notice requirements in subsection (8) of this section.

(b) For purposes of this section, "employment restoration" and "employment protection" mean that the employee is entitled, on return from the leave:

((~~(a)~~)) (i) To be restored by the employer to the position of employment held by the employee when the leave commenced; or

((~~(b)~~)) (ii) To be restored by the employer to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) The taking of leave under this title may not result in the loss of any employment benefits accrued before the date on which the leave commenced.

(3) Nothing in this section shall be construed to entitle any restored employee to:

(a) The accrual of any seniority or employment benefits during any period of leave; or

(b) Any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) As a condition of restoration under subsection (1) of this section for an employee who has taken medical leave, the employer may have a uniformly applied practice or policy that requires each such employee to receive certification from the employee's health care provider that the employee is able to resume work.

(5) Nothing in this section shall be construed to prohibit an employer from requiring an employee on leave to report periodically to the employer on the status and intention of the employee to return to work.

(6)(a) This section does not apply unless the employee((~~: (i) Works for an employer with fifty or more employees; (ii) has been employed by the current employer for twelve months or more; and (iii) has worked for the current employer for at least one thousand two hundred fifty hours during the twelve months immediately preceding the date on which leave will commence. For the purposes of this subsection, an employer shall be considered to employ fifty or more employees if the employer employs fifty or more employees for each working day during each of twenty or more calendar workweeks in the current or preceding calendar year~~)) began employment with the current employer at least 90 calendar days before taking the leave.

(b) An employer may deny restoration under this section to any salaried employee who is among the highest paid ((~~ten~~)) 10 percent of the employees employed by the employer within ((~~seventy-five~~)) 75 miles of the facility at which the employee is employed if:

(i) Denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(ii) The employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that the injury would occur; and

(iii) The leave has commenced and the employee elects not to return to employment after receiving the notice.

(7)(a) Except by agreement between the employer and employee, the employee forfeits the right to employment restoration under this section if the employee does not exercise it upon the earlier of:

(i) The first scheduled work day following the period of leave under subsection (1)(a) of this section; or

(ii) The first scheduled work day following a continuous period of, or combined intermittent periods of a total of, 16 typical workweeks of leave under subsection (1)(a) of this section taken during a period of 52 consecutive calendar weeks, except this period is extended to 18 typical workweeks of leave under subsection (1)(a) of this section taken during a period of 52 consecutive calendar weeks if any of the leave was taken as a result of a serious health condition with a pregnancy resulting in incapacity.

(b) For any continuous period of leave exceeding two typical workweeks or any combined intermittent periods of leave exceeding 14 typical workweeks, the employer must provide at least five business days advance written notice to the employee, in a language understood by the employee and transmitted by a method reasonably certain to be received promptly by the employee, regarding the estimated expiration of the right of employment restoration and the date of the employee's first scheduled work day under this subsection.

(c) The expiration of the periods under (a)(ii) of this subsection does not affect an employee's eligibility for paid family and medical leave benefits under this title.

(8)(a) In order for unpaid leave under subsection (1)(a)(ii) of this section to qualify for employment restoration rights under this section and count towards the maximum periods in subsection (7)(a)(ii) of this section, the employer must provide written notice to the employee, in a language understood by the employee and transmitted by a method reasonably certain to be received promptly by the employee, of the following:

(i) That the employer is designating and counting the employee's unpaid leave against the employee's entitlement under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on the effective date of this section), including specifying the amount of the entitlement used and remaining;

(ii) The start and end dates of the employer's designated 12-month leave year under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on the effective date of this section);

(iii) Since the employee is eligible for paid family or medical leave under this title but is not applying for and receiving benefits, that the employer is counting the unpaid leave towards the maximum periods in subsection (7)(a)(ii) of this section, including specifying the start and end dates of the unpaid leave, and the total amount of the unpaid leave counting toward those maximum periods; and

(iv) That the use of unpaid leave counting against the periods in subsection (7)(a)(ii) of this section does not affect the employee's eligibility for paid family or medical leave benefits under this title.

(b) The employer must provide the written notice required by this subsection:

(i) Within five business days of the earlier of either the employee's initial request for or use of unpaid leave protected by the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on the effective date of this section); and

(ii) At least monthly for the remainder of the employer's designated 12-month leave year.

(9) For purposes of auditing compliance or otherwise enforcing this chapter, the department may require the employer to collect and report information on the exercise of employment restoration rights under this section.

(10) This section does not alter or limit the rights and protections available to employees under other state or federal laws, including but not limited to sick leave or temporary disability taken for pregnancy or childbirth under chapter 49.60 RCW or as an accommodation under RCW 43.10.005, sick leave taken under RCW 49.46.210, or leave protected by the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on the effective date of this section).

**Sec.**  RCW 50A.35.020 and 2019 c 13 s 39 are each amended to read as follows:

((~~If required by the federal family and medical leave act, as it existed on October 19, 2017~~)) (1) Except as provided under subsection (2) of this section, during any period of family or medical leave taken under this title, the employer shall maintain any existing health benefits of the employee in force for the duration of such leave as if the employee had continued to work from the date the employee commenced family or medical leave until the date the employee returns to employment. If the employer and employee share the cost of the existing health benefits, the employee remains responsible for the employee's share of the cost.

(2) This section does not apply ((~~to an~~)) if:

(a) An employee ((~~who~~)) is not ((~~in employment for an~~)) employed by the employer at the time of filing an application for benefits;

(b) An employee is not entitled to employment protection under RCW 50A.35.010; or

(c) The employee did not exercise the right to employment protection within the time periods provided under RCW 50A.35.010(7).

NEW SECTION. **Sec.**  This act takes effect January 1, 2026.

**--- END ---**