
Labor & Workplace Standards Committee

ESSB 5097

Brief Description: Expanding coverage of the paid family and medical leave program.

Sponsors: Senate Committee on Labor, Commerce & Tribal Affairs (originally sponsored by Senators Robinson, Conway, Darneille, Das, Hasegawa, Hunt, Keiser, Liias, Lovelett, Nguyen, Saldaña, Stanford, Van De Wege and Wilson, C.).

Brief Summary of Engrossed Substitute Bill

- Expands the definition of family member in the Paid Family and Medical Leave (PFML) program.
- Requires the Employment Security Department to collect and analyze data and submit reports to the Legislature with certain information regarding the PFML program.
- Requires the general fund to cover certain additional leave expenses.

Hearing Date: 3/16/21

Staff: Lily Smith (786-7175).

Background:

General.

The Paid Family and Medical Leave (PFML) program provides partial wage replacement to employees on leave for specified family and medical reasons. It is funded through premiums paid by employers and employees. The Employment Security Department (ESD) administers the program. The PFML Advisory Committee provides comment on rules, policies, and other aspects of the program, and studies issues as it determines necessary.

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.

A "family member" under the PFML program means a child, grandchild, grandparent, parent, sibling, or spouse.

An employer may opt-out of either the state program for family leave or medical leave, or both, by having a voluntary plan meeting specified standards.

Job Protection.

An employee returning from PFML leave is entitled to be restored to a same or equivalent job when the following applies:

- the employer has 50 or more employees;
- the employee has been with the employer for 12 months or more; and
- the employee has worked for the employer for at least 1,250 hours during the immediately preceding twelve-month period.

Health Benefits.

An employer must maintain the existing health benefits of an employee during PFML leave when otherwise required by the federal Family and Medical Leave Act (FMLA).

The FMLA provides eligible employees with unpaid leave, and generally requires maintenance of health benefits during leave. The FMLA applies to employees meeting work duration requirements for public employers or for private employers with 50 or more employees.

Summary of Engrossed Substitute Bill:

General.

The definition of "family member" 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.

Reporting Requirements.

The ESD must collaborate with the PFML Advisory Committee to collect and analyze disaggregated data relating to employment protections under the PFML program.

By December 1, 2021, the ESD must submit a report to the Legislature with the following information:

- program utilization by employees covered under approved voluntary plans compared to employees covered under the state plan;
- program utilization by employees working for employers with 50 or more employees compared to employees working for employers with fewer than 50 employees;
- the number of employees who took leave from an employer and did not appear on that employer's subsequent quarterly premium reports after leave was completed; and
- the lengths of leave employees took for different purposes.

By June 30, 2022, and June 30, 2023, the ESD must submit a report to the Legislature with the following information:

- the number of individuals who used leave under the PFML program as a result of the amended definition of family member in the act; and
- the effects, if any on the family and medical leave insurance account as a result of the amended definition of family member in the act.

Other.

If the number of individuals utilizing leave under the PFML program as a result of the amended definition of family member in the act exceeds 500 individuals in any calendar year before July 1, 2023, the expenses of the additional leave must be paid by the general fund into the family and medical leave insurance account.

Appropriation: None.

Fiscal Note: Available.

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