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**SENATE BILL 5700**

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**State of Washington****55th Legislature****1997 Regular Session**

**By** Senators Brown, Fairley, Hargrove, McAuliffe, Kohl, Fraser, Kline, Spanel, Thibaudeau, Prentice, Swanson, Goings, Sheldon, Snyder, Loveland, Franklin, Bauer and Patterson

Read first time 02/07/97. Referred to Committee on Commerce & Labor.

1       AN ACT Relating to extending family leave to cover medically  
2 necessary services for children, parents, and grandparents and  
3 children's school activities; amending RCW 49.78.010, 49.78.020,  
4 49.78.030, and 49.78.040; and adding a new section to chapter 49.78  
5 RCW.

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

7       **Sec. 1.** RCW 49.78.010 and 1989 1st ex.s. c 11 s 1 are each amended  
8 to read as follows:

9       The legislature finds that the demands of the workplace and of  
10 families need to be balanced to promote family stability and economic  
11 security. Changes in workplace leave policies are desirable to  
12 accommodate changes in the work force such as rising numbers of dual-  
13 career couples ((and)), parents who are caring for both their children  
14 and their ailing parents or grandparents, working single parents, and  
15 people working overtime or second jobs. In addition, given the  
16 mobility of American society, many people no longer have available  
17 community or family support networks and therefore need additional  
18 flexibility in the workplace. The legislature declares it to be in the  
19 public interest to provide reasonable family leave upon the birth or

1 adoption of a child ((and))\_ to care for a child under eighteen years  
2 old who is ill, especially a child, with a terminal health condition,  
3 to participate in a child's school activities, for routine family  
4 medical purposes, and to care for parents or grandparents who are ill.

5       **Sec. 2.** RCW 49.78.020 and 1996 c 178 s 14 are each amended to read  
6 as follows:

7           Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9       (1) "Child" means a biological or adopted child, or a stepchild,  
10 living with the employee.

11       (2) "Department" means the department of labor and industries.

12       (3) "Employee" means a person other than an independent contractor  
13 employed by an employer on a continuous basis for the previous fifty-  
14 two weeks for at least thirty-five hours per week.

15       (4) "Employer" means: (a) Any person, firm, corporation,  
16 partnership, business trust, legal representative, or other business  
17 entity which engages in any business, industry, profession, or activity  
18 in this state and includes any unit of local government including, but  
19 not limited to, a county, city, town, municipal corporation, quasi-  
20 municipal corporation, or political subdivision, which (i) employed a  
21 daily average of one hundred or more employees during the last calendar  
22 quarter at the place where the employee requesting leave reports for  
23 work, or (ii) employed a daily average of one hundred or more employees  
24 during the last calendar quarter within a twenty mile radius of the  
25 place where the employee requesting leave reports for work, where the  
26 employer maintains a central hiring location and customarily transfers  
27 employees among workplaces; and (b) the state, state institutions, and  
28 state agencies.

29       (5) "Family leave" means leave from employment ((to care for a  
30 newborn or newly adopted child under the age of six or a child under  
31 eighteen years old with a terminal health condition, as provided)) for  
32 any of the purposes stated in RCW 49.78.030(1).

33       (6) "Health care provider" means a person licensed as a physician  
34 under chapter 18.71 RCW or an osteopathic physician and surgeon under  
35 chapter 18.57 RCW.

36       (7) "Medically necessary services" means services that are  
37 reasonably calculated to prevent, diagnose, correct, cure, alleviate,  
38 or prevent the worsening of conditions that endanger life, or cause

1   suffering or pain, or result in illness or infirmity, or threaten to  
2   cause or aggravate a handicap, or cause physical deformity or  
3   malfuction, and there is no other equally effective more conservative  
4   or substantially less costly course of treatment available or suitable  
5   for the client requesting the services. For the purpose of this  
6   subsection, "course of treatment" may include mere observation, or  
7   where appropriate, no treatment at all.

8       (8) "Parent" means a biological or adoptive parent, or a  
9   stepparent.

10      ((+8))) (9) "Reduced leave schedule" means leave scheduled for  
11   fewer than an employee's usual number of hours or days per workweek.

12      ((+9))) (10) "Terminal health condition" means a condition caused  
13   by injury, disease, or illness, that, within reasonable medical  
14   judgment, is incurable and will produce death within the period of  
15   leave to which the employee is entitled.

16       **Sec. 3.** RCW 49.78.030 and 1989 1st ex.s. c 11 s 3 are each amended  
17   to read as follows:

18       (1)(a) An employee is entitled to twelve workweeks of family leave  
19   during any twenty-four month period to:

20      ((+a))) (i) Care for a newborn child or adopted child of the  
21   employee who is under the age of six at the time of placement for  
22   adoption((, or, (b))); or

23       (ii) Care for a child under eighteen years old of the employee who  
24   has a terminal health condition.

25       (b) An employee is entitled to twenty-four hours of family leave  
26   during any twelve-month period to:

27       (i) Participate in kindergarten through twelfth grade school  
28   activities directly related to the educational advancement of the  
29   employee's child, such as parent-teacher conferences or interviewing  
30   for a new school;

31       (ii) Accompany a child under age eighteen years old of the employee  
32   to receive medically necessary services from a provider licensed under  
33   chapter 18.130 RCW or care for a child under age eighteen years old of  
34   the employee with a health condition that requires treatment or  
35   supervision; or

36       (iii) Accompany a parent or grandparent to receive medically  
37   necessary services from a provider licensed under chapter 18.130 RCW or

1 examine a long-term care facility in order that a parent or grandparent  
2 receives medically necessary services.

3 (c) Leave under ((subsection (1))(a)(i) of this ((section))  
4 subsection shall be completed within twelve months after the birth or  
5 placement for adoption, as applicable. An employee is entitled to  
6 leave under ((subsection (1)(b))) (a)(ii) of this ((section))  
7 subsection only once for any given child.

8 (d) Subsection (1)(b) of this section does not apply to an employee  
9 who is, year-round, in a flexible or compressed work schedule or a job-  
10 sharing program.

11 (2) Family leave may be taken on a reduced leave schedule subject  
12 to the approval of the employer.

13 (3) The leave required by this section may be unpaid. If an  
14 employer provides paid family leave for fewer than twelve workweeks,  
15 the additional workweeks of leave added to attain the twelve-workweek  
16 total may be unpaid. An employer may require an employee to first use  
17 up the employee's total accumulation of leave to which the employee is  
18 otherwise entitled before going on family leave; however, except as  
19 provided in subsection (4) of this section, nothing in this section  
20 requires more than twelve total workweeks of leave during any twenty-  
21 four month period. An employer is not required to allow an employee to  
22 use the employee's other leave in place of the leave provided under  
23 this chapter.

24 (4) The leave required by this section is in addition to any leave  
25 for sickness or temporary disability because of pregnancy or  
26 childbirth.

27 (5) An employer may limit or deny family leave under subsection  
28 (1)(a) of this section to either: (a) Up to ten percent of the  
29 employer's workforce in the state designated as key personnel by the  
30 employer. Any designation made under this section shall take effect  
31 thirty days after it is issued and may be changed no more than once in  
32 any twelve-month period. An employer shall not designate key personnel  
33 on the basis of age or gender or for the purpose of evading the  
34 requirements of this chapter. No employee may be designated as key  
35 personnel after giving notice of intent to take leave pursuant to RCW  
36 49.78.040. The designation shall be in writing and shall be displayed  
37 in a conspicuous place; or (b) if the employer does not designate key  
38 personnel, the highest paid ten percent of the employer's employees in  
39 the state.

1       **Sec. 4.** RCW 49.78.040 and 1989 1st ex.s. c 11 s 4 are each amended  
2 to read as follows:

3           (1) An employee planning to take family leave under RCW  
4 49.78.030(1)(a)(i) shall provide the employer with written notice at  
5 least thirty days in advance of the anticipated date of delivery or  
6 placement for adoption, stating the dates during which the employee  
7 intends to take family leave. The employee shall adhere to the dates  
8 stated in the notice unless:

9              (a) The birth is premature;

10             (b) The mother is incapacitated due to birth such that she is  
11 unable to care for the child;

12             (c) The employee takes physical custody of the newly adopted child  
13 at an unanticipated time and is unable to give notice thirty days in  
14 advance; or

15             (d) The employer and employee agree to alter the dates of family  
16 leave stated in the notice.

17           (2) In cases of premature birth, incapacity, or unanticipated  
18 placement for adoption referred to in subsection (1) of this section,  
19 the employee must give notice of revised dates of family leave as soon  
20 as possible but at least within one working day of the birth or  
21 placement for adoption or incapacitation of the mother.

22           (3) If family leave under RCW 49.78.030(1) (a)(ii) or (b) is  
23 foreseeable, the employee shall provide the employer with written  
24 notice at least fourteen days in advance of the expected leave and  
25 shall make a reasonable effort to schedule the leave so as not to  
26 unduly disrupt the operations of the employer. If family leave under  
27 RCW 49.78.030(1) (a)(ii) or (b) is not foreseeable fourteen or more  
28 days before the leave is to take place, the employee shall notify the  
29 employer of the expected leave as soon as possible, but at least within  
30 one working day of the beginning of the leave.

31           (4) If the employee fails to give the notice required by this  
32 section, the employer may reduce or increase the family leave required  
33 by this chapter by three weeks.

34        NEW SECTION. **Sec. 5.** A new section is added to chapter 49.78 RCW  
35 to read as follows:

1        Nothing in chapter . . ., Laws of 1997 (this act) shall be  
2 construed to reduce any provision in a collective bargaining agreement.

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