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**HOUSE BILL 1087**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Berry, Wicks, Simmons, Kloba, Hackney, Santos, Macri, and Sullivan

Prefiled 01/05/21. Read first time 01/11/21. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to clarifying the continuity of employee family  
2 and medical leave rights; adding a new section to chapter 50A.05 RCW;  
3 creating a new section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) Since enacted in 1989, chapter 49.78  
6 RCW afforded employees the right to unpaid family and medical leave,  
7 to return to their jobs afterwards, and to enforce those rights. In  
8 2017, the legislature passed Substitute Senate Bill No. 5975,  
9 creating the paid family and medical leave act to replace and enhance  
10 the existing unpaid family and medical leave laws.

11 (2) The passage of the paid family and medical leave act repealed  
12 chapter 49.78 RCW and replaced its provisions as a new title in Title  
13 50A RCW. However, the passage of the paid family and medical leave  
14 act did not, and was not intended to, undermine any right, liability,  
15 or obligation existing under chapter 49.78 RCW prior to its repeal,  
16 or under any rule or order adopted under those statutes. Likewise,  
17 the passage of the paid family and medical leave act was not intended  
18 to affect any proceeding that had been, or could be, brought under  
19 the existing chapter 49.78 RCW relating to conduct, acts, or  
20 omissions occurring on or before December 31, 2019. To the contrary,  
21 the legislature incorporated the employment protections provisions of

1 chapter 49.78 RCW wholesale into the new Title 50A RCW. Moreover, the  
2 legislature specifically delayed the effective date of the repeal of  
3 chapter 49.78 RCW by over two years after the effective date of the  
4 rest of the act, in part, in order to ensure that there would be  
5 continuity in the protections provided and rights available under  
6 chapter 49.78 RCW and its successor provisions in Title 50A RCW.

7 (3) The legislature intends to clarify that the passage of the  
8 paid family and medical leave act did not sever, impair, extinguish,  
9 or in any way affect the rights, liabilities, or obligations under  
10 chapter 49.78 RCW as it existed prior to January 1, 2020. A cause of  
11 action for conduct, acts, or omissions occurring on or before  
12 December 31, 2019, under chapter 49.78 RCW remains available within  
13 its applicable statute of limitations.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 50A.05  
15 RCW to read as follows:

16 (1) The provisions of chapter 49.78 RCW as they existed prior to  
17 January 1, 2020, apply to employee and employer conduct, acts, or  
18 omissions occurring on or before December 31, 2019, including but not  
19 limited to the enforcement provisions set forth in RCW 49.78.330 as  
20 they existed prior to January 1, 2020. Accordingly, a cause of action  
21 for conduct, acts, or omissions occurring on or before December 31,  
22 2019, under chapter 49.78 RCW remains available within its applicable  
23 statute of limitations. As an exercise of the state's police powers  
24 and for remedial purposes, this subsection applies retroactively to  
25 claims based on conduct, acts, or omissions that occurred on or  
26 before December 31, 2019.

27 (2) The provisions of this title apply to employee and employer  
28 conduct, acts, or omissions occurring on or after January 1, 2020,  
29 including but not limited to the enforcement provisions set forth in  
30 RCW 50A.40.040.

31 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of  
33 the state government and its existing public institutions, and takes  
34 effect immediately.

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