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HOUSE BILL 1753

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Romero, Conway, Keiser, Kastama, Cody, Chopp, O'Brien, Tokuda, Kenney, Dickerson, Regala, Ogden, Lantz, Morris, Blalock, Fisher, Cole, Cooper, Wolfe, Poulsen, Murray, Scott, Mason, Costa, Gombosky, Veloria and Butler

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

1 AN ACT Relating to increasing leave from employment for family  
2 responsibilities; amending RCW 49.78.010, 49.78.020, and 49.78.030;  
3 adding new sections to chapter 49.78 RCW; and creating a new section.

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

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

7 The legislature finds that the demands of the workplace and of  
8 families need to be balanced to promote family stability and economic  
9 security. Changes in workplace leave policies are desirable to  
10 accommodate changes in the work force such as rising numbers of dual-  
11 career couples and working single parents. In addition, given the  
12 mobility of American society, many people no longer have available  
13 community or family support networks and therefore need additional  
14 flexibility in the workplace to meet family responsibilities, including  
15 responsibilities involving their children's health and education. The  
16 legislature declares it to be in the public interest to provide  
17 reasonable family leave upon the birth or adoption of a child (~~and to~~  
18 ~~care~~), for caring for a child under eighteen years old with a terminal  
19 health condition, and for meeting other family responsibilities.

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

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

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

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

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

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

25       (5) "Family leave" means leave from employment, as provided in RCW  
26 49.78.030, to care for a newborn or newly adopted child under the age  
27 of six or a child under eighteen years old with a terminal health  
28 condition(~~(, as provided in RCW 49.78.030)~~).

29       (6) "Family health and education leave" means leave from  
30 employment, as provided in section 4 of this act, for child care  
31 responsibilities related to preventive medical care and educational  
32 activities.

33       (7) "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))~~ (8) "Parent" means a biological or adoptive parent, or a  
37 stepparent.

38       ~~((8))~~ (9) "Reduced leave schedule" means leave scheduled for  
39 fewer than an employee's usual number of hours or days per workweek.

1        ~~((9))~~ (10) "Terminal health condition" means a condition caused  
2 by injury, disease, or illness, that, within reasonable medical  
3 judgment, is incurable and will produce death within the period of  
4 leave to which the employee is entitled.

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

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

9        (a) Care for a newborn child or adopted child of the employee who  
10 is under the age of six at the time of placement for adoption~~((7))~~i  
11 or~~((7))~~

12        (b) Care for a child under eighteen years old of the employee who  
13 has a terminal health condition.

14        (2) Leave under subsection (1)(a) of this section shall be  
15 completed within twelve months after the birth or placement for  
16 adoption, as applicable. An employee is entitled to leave under  
17 subsection (1)(b) of this section only once for any given child.

18        ~~((2))~~ (3) Family leave may be taken on a reduced leave schedule  
19 subject to the approval of the employer.

20        ~~((3))~~ (4) The leave required by this section may be unpaid. If  
21 an employer provides paid family leave for fewer than twelve workweeks,  
22 the additional workweeks of leave added to attain the twelve-workweek  
23 total may be unpaid. An employer may require an employee to first use  
24 up the employee's total accumulation of leave, not including leave  
25 under this chapter, to which the employee is otherwise entitled before  
26 going on family leave; however, except as provided in subsection  
27 ~~((4))~~ (5) of this section, nothing in this section requires more than  
28 twelve total workweeks of leave during any twenty-four month period.  
29 An employer is not required to allow an employee to use the employee's  
30 other leave in place of the leave provided under this chapter.

31        ~~((4))~~ (5) The leave required by this section is in addition to  
32 any leave for sickness or temporary disability because of pregnancy or  
33 childbirth.

34        ~~((5) An employer may limit or deny family leave to either: (a) Up~~  
35 ~~to ten percent of the employer's workforce in the state designated as~~  
36 ~~key personnel by the employer. Any designation made under this section~~  
37 ~~shall take effect thirty days after it is issued and may be changed no~~  
38 ~~more than once in any twelve month period. An employer shall not~~

1 ~~designate key personnel on the basis of age or gender or for the~~  
2 ~~purpose of evading the requirements of this chapter. No employee may~~  
3 ~~be designated as key personnel after giving notice of intent to take~~  
4 ~~leave pursuant to RCW 49.78.040. The designation shall be in writing~~  
5 ~~and shall be displayed in a conspicuous place; or (b) if the employer~~  
6 ~~does not designate key personnel, the highest paid ten percent of the~~  
7 ~~employer's employees in the state.))~~

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.78 RCW  
9 to read as follows:

10 (1) An employee is entitled to forty-eight hours of family health  
11 and education leave during any twenty-four-month period to:

12 (a) Accompany the employee's child under eighteen years old during  
13 an appointment for routine or preventive medical or dental care; or

14 (b) Participate in educational activities involving the employee's  
15 child in a primary or secondary public school program including, but  
16 not limited to, parent-teacher conferences, classroom and sports  
17 activities, and educational enrichment programs.

18 (2) The leave provided under this section:

19 (a) May be unpaid. If an employer provides paid family health and  
20 education leave for fewer than forty-eight hours in the twenty-four-  
21 month period, the additional hours of leave added to attain the forty-  
22 eight hour total may be unpaid;

23 (b) May be taken on a reduced leave schedule subject to the  
24 approval of the employer; and

25 (c) Is in addition to family leave provided under RCW 49.78.030.  
26 An employer may require an employee to first use the employee's total  
27 accumulated leave, not including leave under this chapter, to which the  
28 employee is otherwise entitled before using leave under this section.  
29 However, the employer is not required to allow an employee to use the  
30 employee's other leave in place of the leave provided under this  
31 section.

32 (3) An employer may require verification of medical or dental  
33 appointments or participation in education activities.

34 (4)(a) Except as provided in (b) of this subsection, an employee  
35 planning to take leave under this section must provide the employer  
36 with written notice at least five days in advance of the anticipated  
37 date or dates of leave, stating the dates during which the employee

1 intends to take the leave. If the employee fails to give the required  
2 notice, the employer may deny that request for leave.

3 (b) If, because of an emergency, leave under this section is not  
4 foreseeable five or more days before the leave is to take place, the  
5 employee is not required to give notice but must make a reasonable  
6 effort to schedule the leave so as not to unduly disrupt the operations  
7 of the employer.

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

10 An employer may limit or deny leave under this chapter to either:

11 (1) Up to ten percent of the employer's work force in the state  
12 designated as key personnel by the employer. Any designation made  
13 under this subsection (1) takes effect thirty days after it is issued  
14 and may be changed no more than once in any twelve-month period. The  
15 designation must be in writing and must be displayed in a conspicuous  
16 place. An employer shall not designate key personnel on the basis of  
17 age or gender or for the purpose of evading the requirements of this  
18 chapter. No employee may be designated as key personnel after giving  
19 notice of intent to take leave pursuant to RCW 49.78.040 or section 4  
20 of this act; or

21 (2) If the employer does not designate key personnel, the highest  
22 paid ten percent of the employer's employees in the state.

23 NEW SECTION. **Sec. 6.** With respect to employees covered by a  
24 collective bargaining agreement in effect on the effective date of this  
25 section or an employee benefit plan with a stated year ending on or  
26 after the effective date of this section, this act does not apply until  
27 the later of: (1) The first day following expiration of the collective  
28 bargaining agreement; or (2) the first day of the next plan year, as  
29 applicable.

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